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Communities Defending Basic Liberties



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TABLE OF CONTENTS

China Analysis

Book Reviews

Eva Pils (dir.)

Special feature: Locating Civil Society: Communities Defending Basic Liberties

Introduction: Discussing "civil society" and "liberal communities" in China

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Graduated Control and Beyond: The Evolving Government-NGO Relations

Fengshi Wu and Kin-man Chan

1 In April 2012, China's Ministry of Civil Affairs completed the selection of 377 projects from 901 applications submitted by officially recognised social organisations across the country, and distributed 200 million *yuan* of the central fiscal budget – the "special fund for social organisations' participation in service delivery" – to support these selected projects.[1] On 30 June, the Chengdu Social Organisation Development Fund was established with a starting budget of 300 million *yuan*, the first of its kind in the country fully supported and financed by a provincial capital city government.[2] Starting from 1 July, the Guangdong provincial government relinquished the old registration regulations and made it possible for social organisations to obtain legal status without a "professional supervisory unit" (*yewu zhuguan danwei*).[3] Despite the dramatic events of last year, including self-imposed exile by a leading AIDS activist and the Guo Meimei incident, followed by scandals within the China Charity Federation and warning signals from the authorities due to the Arab Spring earlier this year, 2012 seems to be gradually providing more fertile ground for grassroots social organisations and the development of civil society.

2 As with Chinese politics in general, the issue of governing social organisations is filled with complex and sometimes contradictory trends. Thus, China observers have arrived at different conclusions on the topic. Some praise "remarkable" improvements in recent years regarding the regulatory framework of social organisations, while many remain very cautious about the overall policy environment for grassroots non-governmental organisations (NGOs), social activism, and advocacy.[4] Instead of relying on reading the nuances in policy documents, this research agrees with Guosheng Deng's approach of "in-depth exploration of the unwritten or unpublished rules" in examining government-NGO relations, and engages the debate by examining the interactions between governmental agencies and NGOs in daily practice.[5] To do so, the authors during the period of January 2011 to May 2012 interviewed 60 activists and

staff from 17 provinces, who explained how they interacted with a variety of governmental agencies ranging from professionally relevant ones to those related to public security, foreign affairs, taxation, statistics, and state security.[6] In addition, the paper benefited from field research trips to Guangxi in March 2011, Heilongjiang in August 2011, Guangdong in March 2012, Sichuan in April 2012, Shanghai in May 2012, and Gansu in July 2012, during which the authors met with leading activists, civil affairs officers, and peer researchers in these provinces and discussed changing the local policies and policy environment for NGO development.[7]

3 This research seeks patterns in the dynamic relationship between local authorities and NGOs, and has found that, at the operational level, governmental monitoring and control of grassroots NGOs remain pervasive and effective to a large extent, in spite of recent promising changes in policies at both the national and provincial levels. The enforcement of such control is complicated by at least three layers of factors: First, the Chinese state system is massive and often fragmented, and NGO control and regulation therefore faces the common challenges of inter-bureaucratic and central-local coordination. Second, since the NGO community at its origin is highly diverse and continues to grow, NGOs' responses to various kinds of govern-mental control measures differ, which in turn triggers further complications. Last but not least, as voluntarism and establishing NGO are becoming wide-spread social phenomena in China, the politics cantering NGOs is gradually taking deeper root in local contexts.

4 This paper consists of four main parts. Part one reviews the evolution of the regulatory framework of social organisations in contemporary China in general over time and introduces the pattern of graduated control over NGOs in particular. It also discusses various theoretical perspectives on the topic. Part two further explores the differentiated interactions between governmental agencies and NGOs, and outlines the main factors that shape such interactions. Part three introduces the temporal dimension of the government-NGO relationship, and examines various NGO reactions to the state's graduated control. These responses trigger new adjustments in state behaviour and the enforcement of the control policy. The last part calls attention to policy innovations and changes in governmental attitudes towards the issue of NGO development in several provinces and municipalities, and argues that the overall control over NGOs is modified by local political contexts.

5 A note of definition is in order. The paper defines NGOs as voluntary-based, not-for-profit, and private organisations that exhibit a minimum level of institutionalisation and self-governance.[8] In comparison, a "social organisation" is a much broader category, including but not limited to NGOs, professional and business associations, hobby groups, and community-based organisations. In the Chinese context, the definition of NGO is further modified by two specifications: Firstly, as current Chinese laws make it extremely difficult to register as an NGO, most existing and functioning NGOs have legal status as other types of legal entity. Therefore, the paper considers any legally registered and/or publicly recognised organisation an NGO as long as it in practice fulfils the requirement of being private, voluntary-based, not-for-profit, and with a minimum level of institutionalisation and self-governance. Secondly, the paper uses three criteria to differentiate NGOs from quasi-governmental, semi-state-affiliated, or state-sponsored organisations in practice. These criteria include: 1) the organisation is neither initiated nor registered by a concurrent governmental official or party cadre as its sole legal representative; 2) the initial

funding does not come from the government or part of a governmental project; and 3) there is no mandatory party organ within the organisation.

6 In the official policy language, three types of social organisations are eligible and required to register with the civil affairs bureaus: 1) *shehui tuanti* – membership-based associations; 2) *minban feiqiye danwei* – non-governmental, non-profit organisations; and 3) *jijin hui* – charity foundations. The first type is most highly restricted, as they are seen as the most effective means of social mobilisation and therefore a threat to political authority. Most of the NGOs analyzed here would fall into the second category if they could obtain legal status. Some private charity foundations, such as the One Foundation, Narada Foundation, and Vantone Foundation, find themselves advocating for policy changes in a similar way to NGOs. However, the number, scope, and characteristics of these foundations are different from those of grassroots NGOs, and thus they are not the focus of this paper.[9]

Social organisation regulation in China: A brief review

7 Several benchmark studies point out that a nascent civil society emerged in the late Qing period or even earlier.[10] Chambers of commerce, guilds, kinship organisations, religious organisations, charity groups, and intellectuals' associations were not only active in their own arenas, but were also involved in local governance and political activities. These groups continued to engage in politics during the Republican period by organising events such as protests and strikes around the May Fourth Movement of 1919 and the May Thirtieth Massacre of 1925. Only after the Nationalist Party established its government in Nanjing in 1927 and started to purge the Communists was there a counter-trend in state-society relations in modern China (Strand, 1989;White *et al.*, 1996).When the Chinese Communist Party (CCP) took power in 1949, civil society was further suppressed, if not completely eradicated. In 1950, *Provisional Regulation for Registration of Social Organisations* (*Shehui tuanti dengji zanxingfa*) was promulgated, and by 1964 the responsibility of overseeing these groups was assigned to "supervisory units" (*zhuguan danwei*) such as state-owned enterprises and "people's organisations" (*renmin tuanti*), e.g., the Communist Youth League, the All China Women's Federation, the All China Association of the Disabled, and the National Federation of Industry and Commerce.

8 The *Regulation on the Registration and Management of Social Organisations* promulgated in 1989 after the Tiananmen crackdown was the first attempt of re-organising state-society relations since the end of the Cultural Revolution. Set against the background of the June Fourth movement and the preceding decade of political liberalisation, it was meant to strengthen the state's control over the reviving civil society forces through regular measures. This Regulation was amended in 1998 in the wake of the Falun Gong protests that took the central political authority by complete surprise. There have been high expectations of a new round of revisions to the Regulation since then, but none has appeared to date. As mentioned at the beginning, Guangdong in 2012 became the first province to establish and put in force a new set of rules regarding social organisation registration and regulation at the provincial level. Such could be interpreted as a signal for further regulatory reform at the national level.

9 There are two defining characteristics of the 1989/1998 Regulation: exclusion and dual supervision.[11] First, it stipulates that only one social organisation is allowed to register

within an administrative sector at each level. For example, if there is already in existence an environmental protection association registered at the Beijing municipal level, no other social organisation working in the same issue area for the entire city will be given official approval. Simply put, with the existing government-established social organisations (also known as government organised NGOs – GONGOs) in almost every sector and at every administrative level, there is little institutional space for any new, voluntary-based, and non-government initiated organisations to obtain formal registration. This exclusive provision has largely curbed the growth of associations and any constructive competition between civic associations.

Table 1 – Graduated Control of NGO

Business nature	Main funding source	Scale	Level of Control
Category I: Service delivery	Government, GONGO, official foundations	Small NGO based in residential community	Low
		Medium to large NGO, across communities	Medium
Category II: Service, public outreach, and advocacy in non-sensitive areas	Domestic enterprises, domestic private foundations	NGO and/or cross-regional network	Low to Medium
	Foreign source of funding		Medium to High
Category III: Advocacy in political/religious/ethnic and/or other sensitive areas	Private donations, international NGO and foundations	NGO, informal groups, and/or network	High

Note: Based and developed upon the model in Kin-man Chan, "Commentary on Hsu: Graduated Control and NGO Responses – Civil Society as Institutional Logic," *Journal of Civil Society*, vol. 6, no. 3, 2010, pp. 301-306

10 In addition, the Regulation also stipulates the practice of dual supervision to grant registration. Each organisation needs to find a state agency to be its "professional supervisory unit" before applying for registration with the civil affairs departments at different administrative levels. These supervisory units assume not the professional/technical but the political responsibility for inspecting the activities and finances of civic groups, making sure no illegal – or more importantly, no anti-governmental – activities take place. Thus, governmental agencies have little incentive to sponsor civic organisations, except when material interests or personal connections are involved.[12] Under such arrangements, the state is accustomed to regulating the development of social groups strictly in line with its main policy framework.[13]

11 By the end of the 1990s, most scholars of state-society relations in China viewed the exclusion of genuine citizen initiatives and dual supervision as exemplifying state corporatism – a system of interest representation in which a limited number of constituent units outside of the state are recognised by the state, and therefore state agencies remain the monopolising representatives of respective sectors.[14] Entering the new millennium, the civil society sector has become unprecedentedly active in tandem with deep socio-economic transformations throughout the country. Although the Chinese state recognises the need to create a new social sector to cater to the needs of the population as the vertical rule of the *danwei* system deteriorates, it still worries that this sector will turn into a subversive force when given too much autonomy. This ambivalence has created a lot of inconsistencies and even conflicts among state agencies concerning matters related to NGOs. An increasing body of literature has emerged and highlights NGOs' autonomy and capacity to negotiate political space with the state.[15] Scholars have applied "fragmented authoritarianism" to explain how NGOs, particularly those leading the anti-dam construction movements, are able to utilise limited political opportunity and form alliances with the media, experts, and reform-minded officials to exert pressure on targeted large companies or specific state agencies.[16] Moving to the side of the state, although inter-departmental conflict of interest and central-local bargaining are salient features of the regime, many have pointed out the Chinese state's capacity for learning, adaptation, and improving policy effectiveness.[17] In the field of social regulation, a policy of "graduated control" (*fenlei guanzhi* 分类管治) has emerged and has been implemented effectively.[18] Kang and Han argue that the Chinese authorities differentiate social groups into various types and exercise different levels of control accordingly. To some extent, a policy solution of remaining vague at the overall level and striking deals in individual cases firmly reflects the political pragmatism that has guided China's miraculous economic reform over the past 30 years.

12 Kang and Han's framework covers a wide range of social organisations, including GONGOs, NGOs, hobby groups, business associations, and informal groups. We find this approach of interpreting policies and state intentions useful and accurate for understanding government-NGO relations in particular. It echoes the theme of "embedded activism" proposed by Ho and Edmonds, which captures the tense and interactive relationship between local governmental agencies, contextual factors, and NGOs.[19] Recent empirical research further confirms the argument that NGOs and local authorities interact and negotiate on an almost daily basis.[20] As the NGO sector has grown, the state's learning of it has been enhanced. Although macro-level policies remain vague and out of date, the actual enforcement of NGO control on the ground has become more diversified and thus responsive to the particulars of local conditions and the targeted NGOs.

Table 2 – Content and relevant agencies of NGO control

Level of control	Type of control			
	Sectoral supervisor and civil affairs bureau	Public security	Statistics, taxation, and other regulatory agencies	State security

Low	Minimum document-based supervision, irregular meetings	Rare interaction	No interaction	No interaction
Medium	Frequent document-based supervision and meetings	Irregular personal meetings, or harassment	Warning, irregular requests or visits	Irregular interaction
High	Scrutiny, official warning, temporary closing down	Personal harassment, or office raid	Frequent request	Frequent interaction

13 Based on direct communication and interviews with grassroots NGOs, this paper finds a pattern of graduated and targeted control over NGOs at the operational level in China. Table 1 demonstrates the perceived risk of NGOs and the parallel level of control exercised by the state. Three major factors determine the level of governmental control and monitoring: business nature, funding source, and scale. Business nature stands out as the most significant factor, because it also to a great extent determines the NGO's funding sources and organisational scale. The Chinese government allows, and increasingly supports, NGOs that provide services in issue areas such as poverty reduction, elderly care, women's and children's programmes, and basic education. Most such Category I NGOs have received and are increasingly eligible to apply for funding from governmental agencies (e.g., civil affairs bureaus), GONGOs (e.g., official associations for the disabled), and official charities (e.g., Red Cross China). Once fully funded with official money, such NGOs are often considered a service arm of the administration. In terms of scale, small NGOs working at the community level, particularly the urban residential compounds (*xiaoqu*), are seen as the least threatening to the regime. If they provide valuable social services, then some local governments, such as those in Shenzhen and Shanghai, have even begun to simplify the registration requirements. The Chinese state still finds large NGOs that operate at the municipal or provincial level and serve populations across regions difficult yet necessary to control, even if they only aim at providing services within the boundaries of governmental policies. In the same vein, existing laws forbid NGOs with a nationwide membership base and cross-regional NGO alliances.

14 The government exercises close surveillance, delays registration application, and even impedes the development of Category II NGOs that serve marginal groups such as migrant workers, peasants living with AIDS, or the urban poor affected by forced house-dismantlement or industrial pollution. This group of NGOs serves targeted populations not only by direct delivery of care and service, but also by public education on the issues and even policy advocacy. The goal of their work requires them to bring in outside technical support, experts, and professionals, such as social workers, medical professionals, lawyers, media, and public campaigners. Most of them are therefore not bound to one community or a specific group of victims, and they attract more attention from the supervising authorities compared with Category I NGOs. Among Category II NGOs, those who are able to solicit donations from domestic private enterprises or

charities incur relatively lower government monitoring. More vigorous government surveillance is exercised over NGOs that receive funding from overseas foundations or governments. Since March 2010, Chinese NGOs have been required to go through a notarisation process for any projects funded by overseas entities.[21] Close to one-third of the 60 NGO staff interviewed for our research reported that their funding had been frozen or significantly cut due to this policy change.

15 Finally, the government ruthlessly cracks down on Category III NGOs and networks that are perceived as involved in the democratic movement, religious mobilisation, ethnic separatism, human rights, or anything that is seen as damaging China's international image and internal regime legitimacy, such as the Beijing Gongmeng Legal Research Centre and other rights advocacy groups.[22] Such organisations are usually not able to establish and maintain formal organisational structures, and they most often obtain funding from overseas sources.

16 In practice, the above three factors together affect how the Chinese government views and monitors an effective NGO. For example, a fast-growing NGO specialising in legal assistance for discrimination victims should be regarded as having high risk given the fact that it conducts rights advocacy, receives funds from foreign foundations, and has established affiliated teams in multiple cities.[23] NGOs such as the Beijing Senior Citizen Cooperative should be regarded as low risk, as they work in the area of elderly services, receive funds from the Beijing authorities and domestic corporate charity foundations such as the Guangdong Harmonious Community Foundation, and limit their work strictly to the residential community level.

Table 3 – The temporal dimension of the graduated control of category II NGO

Level of control	Organizational development
Low	Early stage, limited visibility and outreach, 1-2 years
Medium	Sustainable development and continual growth, 3-8 years
High	Relatively higher level of capacity, playing a leadership role among local NGO

Graduated control in operation: Multiple dimensions and agencies

17 The framework of graduated control provides a theoretic overview of governmental attitudes and behaviour towards NGO development in China. This section substantiates this framework by providing the content of the three levels of NGO control and explicates the various state actors involved in the process.

18 The enforcement processes of NGO control in reality are complex and operated by multiple governmental agencies without a centralised regulatory agency. Relevant governmental agencies treat targeted NGOs differently according to their own discretion. The two supervisory agencies, i.e., the professional/sectoral supervisor and

the corresponding civil affairs bureau, are in immediate contact with the NGOs. In addition, at least three more categories of state actors are involved in monitoring NGO activities: public security agencies at the local level, local or national-level statistics, taxation, and other regulatory agencies, and last but not least, the state security agency.

19 Table 2 illustrates the detailed content of graduated state control over NGOs. When such control and regulation remain at low levels, the NGO submits progress reports, balance sheets, and other important organisational files to its sectoral supervising governmental agency and the civil affairs office upon request or on an infrequent basis, e.g., annually or bi-annually. Meanwhile, the NGO is seldom contacted by the district police station (*paichusuo*) or other relevant public security agencies. Even when contacted, such interaction is understood as part of regular checks by local public security agencies, for example, household registry and apartment leasing. No state agencies beyond the administrative level of the NGO's registration will ever interfere with its activities or request to meet its leaders.

20 When an NGO is listed under medium-level monitoring and control, both the professional and civil affairs supervisory offices will start contacting NGO staff much more frequently. Reports and meetings are requested every quarter or more regularly. At this stage, NGO staff, particular the founder(s) and the executive director(s), may experience personal warnings or harassment in written or verbal form by the local public security agencies. The NGO will receive requests to submit finances, legal documents, and organisational files to governmental agencies at higher level(s) of administration.

21 Recent cases from the field have shown that the State Bureau of Statistics has become a common player in monitoring those NGOs that have conducted cross-regional surveys or assisted foreign institutions' research in China. NGO practitioners may be "invited" for tea or meals by state security agents (referred by activists as *qing he cha*).The actual content of these tea sessions or meals can be ambiguous, but the indication is clear: The state knows what the NGO is doing.

22 The high level of control means document-based checks by sectoral supervisory agencies and the civil affairs bureau come by the month, week, or even more often. It is not uncommon at this stage for NGO staff to be asked to explain in detail their funding source(s), what kinds of foreign experts they are inviting, and what exactly they plan to do during a project. Official warnings may be sent in the form of a "red-letterhead file" (*hongtou wenjian*) charging the NGO with collaborating with foreign organisations to disturb social harmony. The worst scenario is that the supervisory agency will deny the necessary documents for renewing the NGO's legal status, which leads to temporary closure. The NGO and its staff may suffer increased pressure including but not limited to office raids by local police, charges of committing economic crimes or conducting illegal research, and temporary detention. Most NGOs will not continue to resist, and will close down at this point.

23 The above three levels are in a sense "ideal types" of NGO control. In practice, there is no definite institutional mechanism to coordinate various state agencies when monitoring and dealing with one particular NGO. At each stage, the NGOs do not necessarily undergo all types of interference by all relevant governmental agencies. Especially during the medium stage, which can last for a long while, different NGOs may experience very different interactions with state agencies. Some can experience

consistent document-based redress without being visited by either public security or state security officers. Some can receive serious requests from the state statistics and security agencies without any previous warning from the sectoral supervisors.

NGO responses and dynamic government-NGO relations

24 Not all NGOs suffer the same level of surveillance, nor does a single NGO experience unvarying attention from the government over time. While most service provision NGOs tend not to draw excessive interference from the state, and any NGOs that touch upon sensitive matters will immediately undergo a level of monitoring, for those NGOs situated in between (Category II in Table 1) the level of surveillance can fluctuate noticeably. As these Category II NGOs grow and expand their work, the initial level of governmental control may evolve and escalate. Table 3 introduces the temporal dimension of government-NGO interactions, and there follows an explanation of the various NGO responses to government control and how such responses further shape their relations with governmental agencies.

25 The meaning of "temporal dimension" is that relevant state agencies modify the level of interference over time, with all other factors remaining constant. This pattern is particularly true with regard to Category II NGOs that conduct both service delivery and some level of policy advocacy on non-sensitive topics. Because they are usually working in fields that do not generally cause offence and pose little apparent conflict with the CCP ruling ideology, e.g., gender equality in basic education, transportation and travel access for the disabled, and eliminating discrimination against Hepatitis B patients in job applications, they are mostly given enough space to develop their work for an initial period of time. During this relatively stable period of growth, this group of NGOs can experience varying kinds of interactions with different governmental agencies. It is important to introduce the temporal dimension and to understand the dynamic nature of the government-NGO power struggle.

Table 4 – NGO responses to governmental control (esp. Category II NGOs)

Level of control	NGO responses	Cases	Outcomes
Low	Follow the rules		Remain low-level
Medium	Follow the rules, negotiate, resist occasionally	A	Remain medium-level
		B	Escalate to high level
High	Resist until give in		NGO closed down

26 The first one to two years for most Category II NGOs are free of stress. The pattern that the NGOs follow all the rules and regulations and their interactions with the

government remain rare at this stage is by and large consistent across cases. However, as soon as they survive the most difficult initial period when resources are scarce, public recognition is low, and social networks are non-existent, they incur attention from various governmental agencies at the same time as they launch major projects and can almost see a bright future for their organisation and targeted population/community. This period of medium-level control and monitoring can last for five or even more years. Different NGOs interact, negotiate, and resist governmental pressure in different ways, depending on their leadership, organisational culture, and many other, unpredictable factors. In turn, governmental agencies may back off temporarily, or intensify the pressure. The outcome is not always constant. Once under high pressure and intense monitoring by the state, very few NGOs, as pointed out previously, can and/or will resist for long, and the pattern becomes clear again. Table 4 below highlights the general patterns of NGO responses to state control and the outcomes of their negotiation and resistance. To better explain the middle period, two recent field examples are given following the table.

27 Case A is an environmental protection NGO with a strong background in student activism based in the capital city of a coastal province.[24] The founding members started environmental activism when they were all in university at the end of the 1990s. They turned the student green group into an independent entity in 2001 with a small grant of US$400 from an overseas foundation. Since 2004, the group has been commissioned by a bilateral assistance agency to take charge of a seed-fund for student environmental activism, first in the greater Yangtze Delta region, and later expanded to cover the entire country. Its annual budget increased significantly after 2007 and annual expenditure reached 170,000 RMB by 2012. The NGO has now four full-time staff (all in their twenties) and a Board of Directors consisting of the founding members, who are now recognised as “veteran” activists within environmental circles, and are well-respected local environmental experts. Up to the present, the organisation has not obtained legal status as a social organisation from the local civil affairs bureau. Nevertheless, it has established its reputation nationwide among the most active environmental NGOs and university-based green groups.

28 Partially due to the fact that much of this NGO’s work focuses on public environmental awareness-raising among youth, in spite of its foreign funding sources and lack of legal status, the government did not interfere with its organisational autonomy. However, the situation changed in the spring of 2011. After the municipal government announced a plan to uproot more than 600 street trees to make way for the construction of subway stations, NGO A utilised Internet-based mobilisation tools to call upon all residents of the city to protect these trees. Most of the street trees in the city are over a century old, and collectively they give the city a unique urban landscape. Soon after that, the local public security agency started to contact the NGO’s executive director. Police officers called late at night and ordered the director to report to the district’s police station. The director resisted this order and protested via micro-blog (*weibo*), explaining the whole incident and putting forward three main points:

1. What our organisation and I myself endeavour to accomplish is in the interests of all the people of our city. We have nothing to hide or be ashamed of;
2. We welcome everyone to check our documents when the time, place, and method are agreeable;

3. I do not feel safe walking late at night, and I hope the local police can respect my basic rights; if so, I am more than willing to cooperate.

29 The micro-blog got hundreds of hits and the word was out immediately. The local police sent someone to NGO A's office the next day and apologised to the director. When interviewed in May 2012, the director expressed mixed emotions of fear and courage on that night and informed us that the level of interference from the public security sector had been stable and had not intensified since that incident.

30 Case B focuses on rural development and works with a few villages in an inland province with a relatively low level of economic development.[25] From the very beginning in the early 2000s, this NGO was established as an independent entity with a team of full-time staff and consistent foreign funding. By 2006, it had not only successfully registered as a non-government, non-profit organisation (*minban fei qiye*) with the municipal-level civil affairs bureau, but had also secured a good working relationship with its professional/sectoral supervisor. In 2007, the municipal Youth League recognised and awarded its accomplishments. In recent years, this NGO has also received a number of important awards within the civil society sector, funded by major domestic donors and selected experts. It has become a leading group among all NGOs in its own province and neighbouring regions.

31 However, in the summer of 2011, its professional supervisory agency issued an official warning accusing the executive director of NGO B of "collaborating with foreign, anti-government forces" and "refusing to comply with relevant regulations." The warning prescribed a two-month deadline for the NGO, meaning that if it was not able to find a new supervisory agency its legal status would not be renewed. Given the circumstances and its record, it was impossible for the NGO to convince any other state agency to be its supervisory affiliation.

32 The executive director of NGO B explained that before the official warning, their supervisory agency pestered the NGO's staff with frequent requests for information on their funding, external relations, and biographical data of their advisors. Such requests started coming weekly or even daily, disrupting the NGO to the extent that office staff could no longer manage their regular work. In addition, staff members and volunteers felt high pressure at the individual level. Facing increasing pressure, the NGO mobilised all possible social capital and personal networks to find a way of communicating with supervisory agencies, in hopes of persuading them of the NGO's "political correctness." Eventually, this NGO discontinued its efforts and temporarily shut down its operations. [26]

33 Comparing the above two cases, both were under medium-level monitoring by the state when the dramatic events took place, but Case A's response and online protest led to a relatively positive result, while Case B failed to improve the situation. This paper is unable to explore systematically the possible causes and mechanisms for the state's counter-responses to an NGO's resistance to control and domination. However, a potential trend indicated by the above two cases is noted. Case A's open and confrontational micro-blog, instead of annoying the local authorities, resulted in apology and a subsequent smooth relationship. In sharp contrast, the NGO director of Case B tried more conventional, culturally sensitive methods of persuasion, but its attempts to "save face" for the government seemed to have little effect in alleviating the pressure. The state's decision to prioritise "social stability" in recent years may have played a role in determining specific treatment of various NGOs and incidents.

34 It is important to clarify that the state's interaction and interference with NGOs are inconsistent, if not oscillating, over time. In most cases, as the NGO grows, the level of state monitoring rises. During the stage of medium-level control, the power struggle between NGOs and governmental agencies reaches its peak. NGOs bear all the pressure and are able to mobilise their social support to resist to some extent. It is during this period that different NGO strategies and methods of resistance can lead to different outcomes in maintaining or escalating the intensive situation.

Cooperation paralleling control: Local variations

35 Besides exercising control, a few local Chinese authorities began to take proactive steps to encourage the development of social organisations within the parameters set by the central government in the early 2000s.The 2008 Sichuan earthquake marked a new era in civil society development in China. Since then, volunteerism, Internet-based charity activity, NGO establishment, and citizen participation in disaster relief and other areas have flourished across the country.[27] Facing soaring activism under the name of "all people's philanthropy" (*quanmin gongyi*), the state recognised the urgent need to reform the regulatory system of civil affairs and social organisations.[28] Municipalities such as Beijing, Shanghai, Shenzhen, Guangzhou, and Chengdu were among the first to experiment with programmes of "innovation in social administration" (*shehui guanli chuangxin*). This policy concept was gradually confirmed by the central government and explicitly stated in a speech by President Hu Jintao in February 2011, setting the direction of social development at the national level as strengthening "*party* leadership, *government* responsibility, *society*'s cooperation, and *public* participation." As pointed out by Ming Wang, Director of the NGO Research Institute at Tsinghua University, local governments have interpreted this "direction" in different ways by putting emphasis on either one or more of the four components. For example, Shenzhen has proposed "strengthening community building and innovating social administration," downplaying the idea of social control. Beijing and Chongqing, however, stressed "social administration and conflict resolution."[29] As "all politics is local," daily enforcement of the control policy is highly diverse across regions and deeply embedded in specific policy context. This section uses representative evidence from Sichuan and Gansu to illustrate how provincial governments vary in implementing NGO control, and how recent local experimentation with the concept of "innovation in social administration" could modify the contentious side of government-NGO relations to varying degrees.

36 The post-earthquake relief and reconstruction opened a rare window of opportunity for NGO and civil society development in Sichuan Province and beyond in 2008. Despite the authorities' change of attitude and shutting out of non-local volunteers or NGOs within six months, local Sichuan NGOs, especially those with some level of organisational capacity prior to the earthquake such as Chengdu Urban Rivers Research Group (*Chengdu chengshi heliu yanjiuhui*) and Roots and Shoots Chengdu (*Gen yu ya*), benefited from the relatively friendly policy environment.[30] The ad hoc NGO platform for relief and reconstruction – the "5.12 Non-Governmental Relief Service Centre," established by a group of 30 grassroots NGOs (based in both Sichuan and beyond) on 13 May 2008 – has not only sustained its operation to date, but also obtained formal registration with the provincial government in early 2012. It has

successfully transformed itself from a loosely connected action network to an institutionalised NGO specialising in natural disaster relief, reconstruction, and policy advocacy. Its current leaders, including a senior researcher of the Sichuan Provincial Academy of Social Sciences, Guo Hong, were invited to participate in policy consultations and were instrumental in drafting the new policies regarding NGO management and "innovation in social administration."[31] At the operational level, NGOs strive to resist local governments' interference to maintain their organisational autonomy, reach those in need, and deliver care and service on a daily basis. In general, however, Sichuan NGOs acknowledge their space, yet limited, to work for the victims of the 2008 earthquake.[32] Following this trend, the establishment of the Chengdu Social Organisation Development Fund to incubate more grassroots NGOs is explainable.

37 In contrast, many local NGOs have found the policy environment become more obstructive in Gansu Province in recent years. By 2008, a dozen grassroots NGOs were active in areas such as environmental protection, ethnic culture preservation, rural poverty relief, children's mental health, and rights for the disabled. Social gatherings, networking, and peer advising were common, and these NGOs enjoyed a sense of mutual trust and solidarity. However, in 2011, half of the NGOs went through vigilant checks and interference from various governmental agencies. By the end of the year, two NGOs decided to temporarily close down their work, and two others had not yet completed renewal of their registration.[33] Although Gansu's provincial Bureau of Civil Affairs has started to experiment with new methods of engaging grassroots NGOs, other sectors of the provincial government remain highly conservative and lack sufficient knowledge of these organisations. Receiving funds from overseas organisations and donors is still viewed by many governmental agencies as a sensitive issue.[34]

38 Sichuan and Gansu to some degree represent the two ends of the spectrum with regard to government-NGO relations in China at the provincial level. Even with President Hu's speech in February 2011, local implementations of the policy direction "innovation in social administration" vary in pace and characteristics. Provinces such as Guangxi and Heilongjiang exhibit characteristics similar to Gansu, where NGOs face persistent political obstacles to enhancing their work quality. Governments in Guangdong and Shanghai, like those in Sichuan, have launched a consistent effort to strengthen the role of civil affairs bureaus in leading the reform of regulating social organisations.[35]

39 In provinces where the governments and political leaders have made political commitments to reforming the sector of social administration, there have been heated debates among officials and practitioners on how to improve the policy environment for NGOs. Many innovative policy ideas are being experimented with in different ways at the local levels, and thus may lead to varying results. One example is the task to establish linkage between governments and NGOs through intermediate organisations, and to develop the NGO sector through a government-recognised incubation agency. In Beijing, a new system of monitoring/supporting social groups through intermediate organisations was established under the framework of "categorised administration" (*fenlei guanli*). Similar to the practice legislated in the 1964 *Provisional Regulation for Registration of Social Organisations*, different GONGOs were assigned as umbrella intermediate organisations in specific issue areas to coordinate all existing and potential social organisations including NGOs. The Association for Science and Technology would be responsible for groups related to technology innovation or public scientific education, the Women's Federation for all groups related to women's issues,

and the Youth League for any youth-related groups. In Shanghai, the municipal government established Service Centres for Social Organisations at different levels to serve an intermediate role in 2005. However, Ma Yili, current head of the Shanghai Bureau of Civil Affairs, pointed out that these intermediate organisations would just create another layer of authority and make the existing social administration system even more complicated. She has stated that what China really needs is more support organisations to help build the capacity of NGOs,[36] and she has expressed appreciation and support for the Non-profit Incubator (NPI) founded independently by social entrepreneur Lu Chao without any governmental affiliation in the mid-2000s. NPI provides various services for social organisations, including training (developing a mission statement, personnel, and financial management), coaching (in fund applications), and official space for new organisations to kick-start their work.

40 Later, NPI was invited by local governments in Shenzhen and Beijing to replicate what was achieved in Shanghai. With the state retaining firm financial and political liaison from the beginning, NPI's autonomy is being highly questioned by the NGO and activist community in Shenzhen and Beijing. They argue that the NGOs incubated and supported by NPI are mostly service delivery groups, merely meeting the needs of the government without having an agenda of their own. In the context of rapid urbanisation and residential community development in these mega cities, NGO leaders expect that many more quasi-NGOs will be created by incubation agencies similar to NPI to fill gaps in welfare provision. In Chengdu, many leading grassroots NGOs remain cautious about the actual impact of the recently established Social Organisation Development Fund.

41 Enhancing public participation is another policy idea raised in recent policy documentation at the national level. Liu Runhua, former head of the Shenzhen Bureau of Civil Affairs and current standing deputy director of the Guangdong Social Work Committee, expressed in a conversation with one of the authors of this paper in May 2012 that his idea concerned not only social service reform but also public participation when he was involved in drafting the new policies related to "innovation in social administration." In his vision, the Provisional Method of Public Procurement of Services from Social Organisations discussed above would encourage governmental agencies to purchase services from social organisations to facilitate the delivery of its essential functions beyond basic services delivery, including specialised services such as legal assistance, policy (legislation) research, policy drafting, organising hearings, and deliberation on policy initiatives.[37] His views are undoubtedly among the most progressive within the Chinese state on the issue of public participation, and it remains to be researched whether Shenzhen's reform of the social administration will proceed as Liu has advocated.

42 With the new policy direction of "innovation in social administration," some optimistic observers may expect a significant change in the political landscape of China when a great number of NGOs are incubated and equipped with legal status and resources in the near future. However, the preliminary assessment detailed in the above discussion implies that if civil society ideas and norms are not properly instilled in the incubation process, such innovations will reinforce the actual processes of control over NGOs without shaking the core of power domination in government-NGO relations.

Conclusion

43 This paper has detailed how the Chinese state has managed to keep NGO development under control in the past two decades. By assessing NGOs' work nature, funding sources, and scope of outreach, different governmental agencies interact with them on a graduated scale of monitoring and interference. NGOs are not passive when facing surveillance; they negotiate autonomy with supervisory governmental agencies and sometimes openly resist harassment by public security or state security agencies. Such reactions and resistance trigger further actions from the state, and thus modify the overall processes of control and management.

44 Entering the 2000s, local authorities in China have increasingly recognised the value of citizens' self-organised charity, mutual-help, and disaster relief activities, and the role of NGOs in leading such activities and taking part in social service delivery. Therefore, along with monitoring and control, some local governments have started experimenting with friendship policies to encourage the development of NGOs in social service delivery, community building, and public participation. This parallel control and cooperation has two main implications: First, the overall policy environment for NGO development in China is not one-dimensional but filled with ironies. For NGOs based in places such as Shanghai, Shenzhen, Chengdu, and Guangzhou, opportunities for growth and cooperation with the government will be accompanied by monitoring and interference. For others in most parts of the country, targeted and differentiated control will continue in spite of new developments in national-level policy documents. Second, there is no guarantee that the cooperative policy innovations recently put in force will lead to flourishing grassroots NGOs. If implemented with conventional methods and administrative channels, so-called cooperative policies can quickly turn into new means of NGO co-optation. It will be the state, rather than the sector of NGOs and civil society, that will benefit most from these policies by inventing a group of quasi-NGOs whose sole mission is to take in retired bureaucrats, absorb resources, put up window-dressing, and reiterate official lines. Grassroots NGOs may in fact be further marginalized by losing out in the new game of competing for official funding and support.

45 Should NGOs register with the government and make themselves completely transparent to the state? Should NGOs bid for government projects and rely on state funding to sustain their operations? Should NGOs participate in the consultation mechanism of the state and refrain from adopting non-institutional and risky tactics in advocacy? These are questions and dilemmas that Chinese NGOs will face in the new era of innovation in social administration.

NOTES

1. For a full announcement of the selection results, see www.chinanpo.gov.cn/2351/53036/index.html (consulted on 16 August 2012).

2. Chengdu municipal government official website, www.chengdu.gov.cn/news/detail.jsp?id=644642 (consulted on 16 August 2012).

3. Scheme of Incubation, Development, and Regulation of Social Organisations, Guangdong Provincial Bureau of Civil Affairs, www.gdmjzz.gov.cn (consulted on 16 August 2012).

4. Professor Karla Simon presented her positive assessment of the changes in regulations of social organisations in China and called 2011 "the remarkable year for China's civil society" at New York University Law School on 6 March 2012. However, many remain cautious about the actual implementation and effects of recent regulatory changes. For example, Shanghai Fudan University professor Yijia Jing has correctly pointed out the resilience of state power and comprehensive restrictions over social organisations embedded in the recent experiments of governmental outsourcing and competitive contracting in social service delivery (Yijia Jing, "Outsourcing in China: An Exploratory Assessment," *Public administration and development,* vol. 28, no. 2, 2008, pp. 119-128;Yijia Jing and Bin Chen, "Is Competitive Contracting Really Competitive? A Case Study of Restructuring Government-Nonprofit Relations in Shanghai," Working Paper of the Center for Nonprofit Strategy and Management, Baruch College, City University of New York, 2009).

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7. Some of the field trips were funded by the Hong Kong General Research Fund Grant (Project # 453509, Principle Investigator – Fengshi Wu), "Ideational Dimensions of Civil Society: An Empirical Research of the Political Reflection and Collective Identity of Social Entrepreneurs in China" (September 2009–August 2012).

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23. The name of this case is kept unidentified for the purpose of protection.
24. All identifying features of both Case A and B have been changed to protect the confidentiality and security of informants. The interview and site visit for Case A were conducted in May 2012.
25. The interview and site visit were first conducted in May 2009 and followed up in April 2012.
26. By the time of publication of this paper, NGO B had resumed parts of its work without a legal status.
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30. Interview with the director of Roots and Shoots Chengdu in Sichuan, 28 April 2012.

31. Interview with Guo Hong in Chengdu, 28 April 2012.

32. Interview with Mr. Wen, a social worker and director of the Yinxiu office of the Datong Association of Social Workers, in Yinxiu Township, Sichuan, on 29 April 2012. Interview with Ms. Kou, director of an NGO working with disabled children in a north-eastern county in Sichuan, in Hong Kong on 18 May 2012.

33. Interviews with Mr. Bai and Ms. Du of two different local Gansu NGOs, in Hong Kong in August 2011. Interview with Mr. Zhao of another local Gansu NGO, in Shenzhen on 27 April 2012.

34. Interview with an official of Gansu's provincial Bureau of Civil Affairs in Lanzhou, Gansu, on 27 July 2012.

35. Since July 2011, Wang Yang, the governor and Party secretary of Guangdong Province, has repeatedly highlighted the importance of "innovation in social administration" in many of his public speeches. In his most recent official visit to Singapore in June 2012, social administration was among the priority tasks for discussion and learning. See http://zt.my/News/NewsShow-42054.html (consulted on 16 August 2012).

36. Ming Wang, "The Practice of Innovation in Social Administration in Shanghai: Interview with Ma Yili," *China Nonprofit Review*, vol. 9, no. 1, 2012, p. 12.

37. When Liu was still the bureau head in Shenzhen, he employed a private company to conduct public opinion surveys and hold public hearings to collect opinions during the policy formulation process. He promoted the slogan "growing together with civil society" and argued that the new governance model is needed to accommodate a pluralistic (*duo yuan*) society.

ABSTRACTS

Despite recent policy changes, governmental monitoring and control of grassroots NGOs remain pervasive and effective to a large extent in China. The enforcement of control over NGOs is complicated by at least three layers of factors: First, multiple agencies are involved in NGO control without a centralised norm. Second, government-NGO interactions vary across cases and are deeply rooted in local political contexts. Last, but not least, since the NGO community at its origin is highly diverse, NGOs' responses to various types of governmental control differ, which in turn triggers further complications. The main findings of this research are based on interviews with 60 NGO staff, as well as with civil affairs officials in Shanghai and Shenzhen from January 2011 to May 2012.

INDEX

Keywords: state-society relations, NGO, Chinese politics, social regulation

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Media and civil society in China

Community building and networking among investigative journalists and beyond

Marina Svensson

Media and civil society interactions: Interpretive communities and fields

1 In the West, the media are generally expected to play an important role in enhancing and strengthening democracy and civil society, although they are also often criticised for legitimising inequalities, excluding marginalized voices, and benefiting those with economic power.[2] A vibrant civil society and media that serve as watchdogs of public and corporate power are crucial to ensure a well-informed citizenry and genuine participatory democracy. Investigative journalists can in this respect play an important role as they act as watchdogs and push for accountability and justice, and because they also give voice to marginalized groups in society. They are furthermore more likely to network with other social groups and with civil society organisations engaged in the same struggles for a just and fair society. Investigative journalists are therefore often described as "custodians of conscience," although such labelling may give rise to impossibly high demands and verge on hero worship.[3]

2 Although civil society is weak and the media are tightly controlled in China, it has been possible to carve out some spaces of autonomy, albeit negotiated and conditional, during the reform period. Several studies have drawn attention to the "negotiated" and "contingent" nature of civil society and the creation of informal spaces and networks on-line and off-line.[4] In order to understand the different forms that civil society takes in China when formal organising is difficult and restricted, it is necessary to broaden our perspective to study the role and form of informal communities, networks, and meeting spaces on-line and off-line. In a recent article Callahan has also emphasised the need to study "how civil society emerges through the 'alternative civilities' of citizens' many 'China dreams.'"[5] The media and the Internet today constitute important platforms both for public debates on urgent issues and for civil society

developments.[6] This calls for a closer study of the role of journalists in these developments and as promoters of different "China dreams."[7]

3 There is a growing body of literature on investigative journalism in China.[8] These studies have mainly focused on the possibilities for and institutional context of investigative journalism in different types of media, including issues of control and censorship, and journalists' work practices and relations to editors and propaganda departments.[9] Many studies also focus on the content of and struggles behind selected stories and scoops.[10] Some works contain more in-depth interviews with journalists on their values, work practices, and representative stories,[11] while a recent survey aims to map this distinctive group by age, gender, geographical prevalence, educational background, job satisfaction, and values, etc.[12] The number of Chinese investigative journalists is rather small, around 300 people according to the extensive survey made by Zhang and Shen, and it is a group with a high turnover rate and mobility. It is also relevant to point out the gendered nature of investigative journalism, with only 16 percent being women, which means we talk about a male dominated community. Although investigative reporting is very remote from the daily work of the majority of Chinese journalists, investigative journalists are often held up as role models and heroes in the journalistic community and in society in general, and thus have a greater impact than their small numbers would lead us to assume.

4 The aim of this article is to address more explicitly how a community of investigative journalists has been created, and these journalists' roles, struggles, and interactions with other journalists, social groups, and civil society organisations. In order to do so I borrow from two analytical concepts, namely Zelizer's idea of journalists as "interpretive communities" and Bourdieu's "field theory." A community is created by people sharing and circulating certain values and narratives, and through their networking, cooperation and joint struggles. The analytical concept of "interpretive community" is very useful as it explicitly focuses on how journalists share discourses and collective interpretations of public events, and thus takes us away from the more narrow discussions on professionalism.[13] According to Zelizer, journalist communities emerge through all the different ways journalists shape meaning about themselves and their work. An interpretive community is created through story-telling, shared memories, and the circulating of journalistic discourses in different forums and using different communicative forms, including informal talks and lectures, writings in journalism journals, memoirs, and other types of publications, as well as interviews and reports in the media. This also shifts the focus from professional associations to the myriad places and venues where journalists can meet, and where journalistic values and practices can be discussed. I would also argue that the identity and community of investigative journalists is additionally shaped and reinforced through the stories and narratives other actors and the public tell and circulate about them. The image-building surrounding individual investigative journalists, the most well known example in China being Wang Keqin, is thus shaped by both the media and scholars. The circulation of stories about investigative journalists raises the status and glamour of investigative journalism, provides role models and heroes, and shapes the public's expectations of journalists in general.

5 To study how investigative journalists interact, not only with the state/power, but also with other social groups and with civil society organisations, is crucial for understanding their role and impact in society. Bourdieu's concept of "field," further

adapted and developed by media scholars, is useful when studying journalist communities, or the "journalistic field," and their interaction with other "fields" in society.[14] There are many aspects of Bourdieu's field theory that are useful for my purpose. It enables us to look at issues of agency and structure in a more complex way, avoiding the pitfall of overestimating structural constraints, and to understand processes of resistance and possibilities for autonomy within the "journalistic field." Furthermore, a realisation of the complex socialisation of norms and existence of sub-fields within the "field" opens up for an understanding of how investigative journalists can be, in part, differently socialised from more mainstream journalists and able to create new spaces for themselves. However, the "journalistic field" in China undoubtedly remains subject to the constraints of economy and politics, and the sub-field of investigative journalists is quite marginal.

6 There are many alliances between journalists and other groups, or "fields," in society, that sometimes are problematic as well as contested.[15] Investigative journalists are increasingly networking with many different groups in society, including legal scholars, lawyers, and civil society organisations, and on many different issues. These individuals and groups are also often quite weak and subject to both economic and political pressures. Nonetheless, the networking between investigative journalists and other groups has sometimes put new topics on the agenda and made a real impact in people's life. Journalists' relationship with lawyers take different forms, including getting tips about interesting cases or problems in society, information during investigation of specific cases, and help with analysing the underlying institutional and legal issues behind individual cases. Journalists often interview legal scholars for their expert views, but scholars and lawyers are also invited to write independent comments, op-ed pieces, and blogs. This has led over time to the creation of an informal network of journalists, legal scholars, and lawyers who often share the same ideals and visions, engage in common struggles, and offer moral support when facing difficulties.[16] Investigative journalists also have quite close relations with different types of civil society organisations. Many journalists and media outlets today are interested in reporting on civil society organisations and their work. Civil society organisations are also eager to cultivate good relations with the media in order to get publicity, and they invite journalists to their events or organise workshops to raise awareness among journalists on specific issues.[17] Some civil society organisations have even been established by journalists or involve journalists as active members.[18]

Agency, autonomy, and structural constraints in investigative journalism: Spaces for negotiation and resistance

7 Ideological, social, and economic changes have resulted in dramatic changes to the Chinese media landscape. Even so, the existence of investigative and critical journalism might at first glance seem improbable, given structural constraints, censorship, and the lack of independent media. However, one shouldn't dismiss the fact that Chinese journalists may have possibilities for agency and autonomy. It is important to study the complex and evolving interactions between agency and structure, and the moments of and struggles for agency and autonomy among journalists.

8 Investigative journalism has developed from the official media policy of "supervision by public opinion" (*yulun jiandu* 舆论监督) adopted in the late 1980s.[19] This policy encourages the media to develop a limited watchdog role in order to check and supervise local power abuse. Such supervision is much needed as a result of widespread corruption and difficulties with implementing laws and policies. The target is therefore expected to be limited to local officials and their power abuse, and *yulun jiandu* is often seen as part of the CCP's internal supervision. It is obvious that the current leadership regards the media more as tools to guide public opinion rather than as independent watchdogs. However, one also has to bear in mind that another important driving force behind investigative and critical reporting in China has been the commercialisation and decentralisation of the media. The media today need to publish stories that interest their readers, since they can no longer rely on state subsidies. The important weekly *Southern Weekend* (*Nanfang zhoumo* 南方周末) thus turned to investigative reporting as part of a careful marketing strategy, and metropolitan newspapers such as *Southern Metropolitan News* (*Nanfang dushi bao* 南方都市报) also realise that such reporting attracts readers.[20] Market forces thus initially spurred investigative reporting in China, although the dependency on advertisements can have an adverse effect on such reporting. The fact that a whole range of social and economic ills have appeared in the wake of the economic reforms, such as corruption, environmental problems, shoddy products, and health hazards, also explains the growing attention to these social problems on the part of the media. This development is further reinforced by the fact that many citizens seek out journalists with stories about injustice and problems. The public believes that media publicity is an efficient avenue for redress, as it puts pressure on officials and the courts.[21]

9 In other words, there exists some scope and acceptance for certain investigative reporting by the leadership, or different segments of it, and during different periods, as well as bottom-up pressure from readers and competition among different media groups, that gives an unpredictable momentum to *yulun jiandu*. This contingent nature of investigative journalism also helps explain its many ups and downs over the past decade.[22]

10 In some ways, therefore, journalists and the media, like other civil society actors, live in a close and contingent symbiosis with the state, but that doesn't mean they are prisoners of the official media policy and that there is no space for negotiations and resistance. In fact, journalists and editors are making good use of the policies on *yulun jiandu* to push boundaries and engage in critical and investigative reporting that go well beyond the state's original intentions.[23] They are in this context very apt at exploiting the fragmented nature of the Chinese state to their own benefit. As will be discussed in more detail in the article, Chinese journalists are not passively accepting official media policy and propaganda directives. They try to be one step ahead of and outwit propaganda departments and even occasionally defy propaganda directives. One scholar has described this as "guerrilla tactics."[24] This boundary-pushing gives rise to a negotiated space that is shaped by journalists as well as editors, propaganda officials, other officials, and the general public.

Critical newspaper Southern Metropolitan News prominently displayed in a newspaper stand in Guangzhou



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The image and identity of investigative journalists: China's conscience?

11 Although all Chinese media are still state-owned, the once unifying and all-embracing identity of journalists as the "mouthpiece" (*houshe* 喉舌) of the Party is now challenged and competes with other identities and role models. Hassid in a recent article argued that there exist at least four different types of journalists, ranging from traditional "mouthpieces," "American-style professionals," "advocate professionals," and "workaday journalists."[25] Generally speaking, we can distinguish between journalists who operate "within the system" (*tizhi nei* 体制内) and belong to the nomenklatura, and journalists working for the commercial "outside the system" (*tizhi wai* 体制外) media, although the Party press also increasingly employing journalists on a contract basis. The traditional party media and the commercial media nonetheless exhibit quite different institutional cultures and editorial policies that give rise to different value systems in news production.[26] This is reflected in views on the acceptance of "red envelopes" (*hong bao* 红包), objectivity, professionalism, what is considered newsworthy, and the extent to which the newspaper encourages and publishes investigative reports.

12 Investigative journalists are mostly found within the commercial media, but they are not a homogenous group. They may thus embody ideals that draw from very different role models, including the literati/Confucian one of remonstrating with those in power, the mouthpiece/*yulun jiandu* tradition of providing advice and supervising local

officials, or the more professional/adversarial role inspired by Western investigative journalism and "muckraking." We also find differences between investigative journalists at *Southern Weekend*, with their more emotional language and advocacy approach, and the more objective and professional investigative model characteristic of *Finance* (*Caijing* 财经) and *CenturyWeekly* (*Xin shiji* 新世纪).There are also differences among different generations of investigative journalists, with many of the older generation being more of the advocate type.[27]

13 When investigative journalists talk about themselves, they usually use the word investigative journalist (*diaocha jizhe* 调查记者) and stress their grassroots background. In describing their work and goals they often refer to ideas of justice (*gongzheng* 公正), equality (*gongping* 公平), protecting weak groups in society (*baohu ruoshi qunti* 保护弱势群体), revealing abuse of public power (*jiekai lanyong gonggong quanli* 揭开滥用公共权力), and protecting citizens' rights and interests (*baohu guomin quanli* 保护国民权利). In an article in *Modern Express* (*Xiandai kuaibao* 现代快报), investigative journalists were described in the following terms:"They are the 'muckrakers' (*pafen gong* 扒粪工) of China's news landscape, they are China's muckraking journalists (*jiehei jizhe* 揭黑记者), they are the conscience of society (*shehui liangxin* 社会良心), and the protectors (*shouwangzhe* 守望者) of our rights."[28] Jian Guangzhou, who broke the story of the Sanlu milk powder scandal in 2008, was described as a "heroic journalist (*yingxiong jizhe* 英雄记者)" and "China's conscience" (*Zhongguo de liangxin* 中国的良心).

14 While investigative journalists seldom get official journalism prizes, commercial media and Internet portals select and celebrate this type of reporting through alternative prizes and honorary titles. For example, the well-known investigative journalist Wang Keqin was among those awarded the "Honorary Prize for Promoters of the China Dream" by *Southern Week-end* in 2010. Other recipients were economist Wu Jinglian and film director John Woo. In April 2011, the fashion magazine GQ published an article with quite stylish photos of ten investigative journalists, thus introducing them to an audience tuned more into fashion than social reportage. One of the young journalists portrayed, Huang Yuhao, then with *Beijing News* (*Xinjing bao* 新京报) and now with CCTV, in 2010 won in the category of young journalists in a competition selecting outstanding young citizens of the 1980s generation. The competition was arranged by the video sharing website *ku6* together with media such as *Southern Metropolitan News*. The identity and image of investigative journalists are thus not only constructed by the journalists themselves but are also shaped by other actors and media reporting.

The emergence of a community of investigative journalists: On-line and off-line networking

15 In order to understand the community of investigative journalists, one needs to take into account not only how they identify themselves but also how they network. It is interesting to note that they themselves increasingly have begun to talk about the emergence of a community (*gongtongti* 共同体) of journalists. Fu Jianfeng, formerly with *Southern Weekend*, was one of the first journalists to more explicitly elaborate on the idea of a "community" of journalists sharing similar ideals and finding moral support, a sense of home (*guisu gan* 归宿感), a shelter (*bihusuo* 庇护所), and a spiritual home (*jingshen jiayuan* 精神家园) in shared ideals and struggles.[29] While this

"community" is not always clearly defined and continues to develop, it is obvious that Fu refers to journalists who write more critical and investigative reports. The idea of a community has taken hold and is today often used to describe the sense of a joint cause, shared ideals, and cooperation among investigative journalists.[30]

16 The official All-China Journalists' Association (ACJA), run by the Central Propaganda Department, has not been relevant in creating a sense of community among investigative journalists, who have little or no contact with it. It is neither central to their identity and professional values nor seen as representing them. Given the strict control over civil society, and professional organisations in particular, it has not been possible for journalists to establish alternative or independent journalist organisations. Instead, different types of informal networks have developed over time, which include people with similar visions and ideals who exchange information and support each other. These networks are loose and overlapping in nature, cross both media and geographic boundaries, and are nurtured through personal networks, friendships, work relations, and regional ties. New ICTs, such as QQ groups, blogs, and microblogging, have made it easier for journalists to stay in touch, share stories, and offer support across geographic distances and over media boundaries. In 2000, journalist Liu Jianming created the Reporters Home BBS to serve as a platform for journalists to discuss and share information. It rapidly became very popular among journalists, and today there exist some 100 different QQ groups set up by journalists. Investigative journalists have also set up their own QQ groups.[31] These groups are rather exclusive, and one can only become a member through personal introductions, promoting a sense of close-knit community. The fact that so-called "cross-regional supervision reporting" (*yidi jiandu* 异地监督) is easier to do than investigative reporting in one's own locality means that many investigative journalists report from localities other than their own. Chinese investigative reporting is characterised by cooperation across media groups and a high degree of mobility among journalists, which has been conducive for developing a sense of community as well as strengthening the need for networking. In order to be able to report from new and unfamiliar environments, journalists depend on collegial support from local journalists, and in this context QQ groups have proved important. QQ groups are thus used in order to get information and access to local sources, for support and help when encountering problems, and for discussions on work-related issues and methods, and they also enable journalists to connect for off-work and off-line gatherings.

17 Since 2009, microblogging has appeared as a new and important tool for communication and networking among journalists that also facilitates and encourages communication and networking with other groups in society. Journalists were among the first adopters of microblogging in China. A study of 2,503 journalists showed that already in 2010, 47 percent frequently used *weibo* (微博) at a time when the average percentage of *weibo* use among Internet users in general was only 25 percent.[32] The majority of journalists, 77.8 percent, favour Sina's microblogging service. A recent study of 293 investigative journalists showed that 60 percent use blogs and *weibo*,[33] whereas another study showed that some 200 out of approximately 350 investigative reporters have *weibo* accounts.[34] In my own study of 31 investigative journalists, I found that all but four used *weibo* (but of those four, one used Twitter rather than *weibo*), i.e., 87 percent. Among the 27 journalists using *weibo*, 11 had set up accounts already in 2009, 11 in the first half of 2010, four in the second half of 2010, and one in 2011.

18 Not all networking takes place online but also leads to or is initiated offline. Journalists have set up several informal journalist saloons on their own or in co-operation with civil society organisations and other groups. These provide an opportunity to meet in real life and discuss topical issues and work practices. The environmental organisation Green Earth Volunteers in Beijing, for example, organises a salon that brings together journalists, other civil society organisations, and experts.[35] In 2006, concerned journalists and legal scholars who wanted to strengthen legal reporting and create a forum for discussions on both legal issues and journalistic practices established the law journalists' salon.[36] The salon has met on an irregular basis over the years and by January 2010 had arranged a total of 17 meetings. The topics covered include problems for investigative reporting, reporting on criminal cases, legal reporting in *Southern Weekend*, and the Open Government Information Act. The salon had a core group of active participants and attracted journalists from some of the country's top newspapers, such as *Southern Weekend*, *Southern Metropolitan News*, *Finance*, and *Beijing News*. It also provided opportunities for journalists to have discussions with legal scholars, lawyers, media scholars, and civil society organisations. In early 2012, a group of young journalists started a new journalist saloon, Blue Media Salon. The salon has so far met three times and has discussed, among other things, disaster reporting and the use of social media among journalists.

19 Other actors, including scholars, media organisations, and foreign civil society organisations, have also been instrumental in the creation of a community of investigative journalists as they provide different meeting places where journalists can share experiences and discuss journalistic practices. The annual conferences on watchdog journalism arranged by professor Zhan Jiang (currently at the Beijing Foreign Studies University) has been a crucial platform for investigative journalists since 2001.[37] At these conferences investigative journalists have an opportunity to discuss and reflect upon their stories and share them with colleagues, media scholars, lawyers, and legal experts.[38] Scholar Zhang Zhi'an (formerly with Fudan University and now at Zhongshan University) has written several books on investigative journalism and regularly invites investigative journalists to give talks to his students.[39] Different media groups also organise or cosponsor lectures and events at universities. *Southern Metropolitan News*, for example, organises a special university lecture tour.[40] These kinds of activities also ensure that future journalists are exposed to the work of investigative journalists.

20 The in-house training of China's most critical media groups, such as *Caijing*, *Caixin*, and the Southern Media group, also contribute to creating a community of investigative journalists. They in addition sponsor some cross-media training programmes, workshops, and publications, which ensures that their take on professionalism spread further. The magazine *Finance* (*Caijing*) has thus for many years organised a scholarship programme at Peking University to which outstanding journalists in the fields of economics and law can apply.[41] *Caijing* and later *Caixin* have also organised short training sessions, open to other journalists, on different issues such as environmental reporting. Since Hu Shuli became the head of the media and journalism department at Zhongshan University she has established a three-month scholarship programme that has attracted investigative journalists but also applicants from the Party press.[42] The Southern Media Group publishes an important journal, *Southern Media Studies* (*Nanfang chuanmei yanjiu* 南方传媒研究), which provides a platform for journalists from not only

the media group itself but also from other media to discuss their work, journalistic practices and ideals, investigative reporting, the use of *weibo* among journalists, and recent important reports and their background stories.[43]

21 There have also been some efforts by international media organisations to provide training and platforms with the aim of strengthening journalistic professionalism. The International Center for Communication Development (ICCD) has been working with Chinese partners since 2006.[44] It has provided training and seminars on investigative reporting, media ethics, legal protection of journalists, disaster reporting, reporting on food safety, environmental reporting, and the relationship between the courts and the media. In 2009, the Copenhagen-based International Media Support (IMS) started collaborating with Chinese universities and media organisations.[45] It has to date organised workshops and seminars on investigative reporting, climate change and environmental reporting. It has also sponsored Chinese journalists' attendance at some international investigative journalism conferences.

22 Linkages, overlaps, and cross-fertilisation are common between these different actors, and many of the more active investigative journalists will turn up at events arranged by different actors. There is a heavy concentration in Beijing and Guangzhou, with only occasional events and workshops taking place elsewhere in the country. However, participants may come from different parts of the country.

Storytelling and community building

23 Important and epoch-making reports are pivotal for the building of a community, as this helps create a collective memory. The Watergate scandal was such a pivotal affair for investigative journalists in the American context, whereas the Sun Zhigang case in 2003 played a similar role for investigate journalists in China.[46] This case is often mentioned when one asks investigative journalists to list important reports in their field. It also resulted in fame for the reporters who broke the case; in 2003, CCTV selected Chen Feng, one of the journalists from *Southern Metropolitan News* who broke the Sun Zhigang story, as one of the eight best journalists that year. The Sun Zhigang case is also celebrated among legal scholars, lawyers, and rights defenders, who played a crucial role in revoking the provision on custody and repatriation. The case is therefore also important because it brought together journalists, legal scholars, and lawyers in a joint cause that laid the foundation for closer contacts and networking among these different groups. Over the years we have seen this close cooperation in reporting on different legal cases and topics, such as the treatment of petitioners, death penalty cases, the existence of black jails, and reports on the arrest and harassment of lawyers such as Li Zhuang.[47]

24 The 2008 Sichuan earthquake was another pivotal experience for Chinese journalists. They were able to push for and, at least initially, get unprecedented and unlimited access to the disaster area and the victims, and thus a taste of what it might be like to report without restrictions. In addition, it brought more exposure and contact with foreign journalists and with civil society organisations. However, by late May new directives were issued preventing critical discussions on school construction and protests by parents seeking justice for their dead children. The experience and special challenges of reporting on the earthquake, including the frustration of not being able to probe into the collapse of schools, constitutes a powerful narrative that continues to

be discussed among journalists.[48] Many of China's best investigative reporters were sent to the earthquake area. This experience gave rise to further demands on access to information and expectations that journalists should work for the public interest. Many other events and reports gave rise to shared experiences and different lessons that were subsequently discussed in meetings and special journals such as *Nanfang chuanmei yanjiu*. Not all events and reports result in consensus, however, and some have led to quite divided opinions and debates among journalists and other groups in society.[49]

Pushing the envelope: Fighting against restrictions and for more autonomy

25 Journalists are not passive and silent when facing restrictions on their freedom to interview and report, and sometimes they fight back and try to defend or expand their autonomy. Their struggles include both open defiance of restrictions and bans and more subtle and ironic forms of resistance. This is well illustrated by reactions to Hubei Governor and NPC delegate Li Hongzhong's attack on a journalist in 2010.When Li faced critical questions, he grabbed the journalist's recorder and chided her for conduct unbecoming a journalist from a Party newspaper. His attitude was criticised and ridiculed by both ordinary citizens and journalists, and satirical cartoons (*manhua* 漫画) depicting the event were widely circulated on the Internet. Several newspapers such as *Finance* and *Southern Metropolitan News* published critical editorials, and a group of well-known journalists and intellectuals signed a petition criticising Li's attitude and demanding a public apology.[50] Reflecting a similar attitude, an official from Henan who was questioned by journalists about the construction of villas on confiscated land rhetorically asked: "Are you planning to speak for the Party or for the people?" This statement was criticised for revealing how officials expect the media to back them up and write favourable reports, and contrasted with general expectations that the media should supervise public power and speak for the people.[51]

26 When some journalists were harassed and detained by police when trying to interview relatives after a plane crash in August 2010 in Yichun, a group of some 20 journalists went to the police station to protest. Some of them held up signs with characters that formed the sentence: "Police shouldn't arbitrarily detain journalists."[52] A photo of this protest was widely circulated on journalists' microblogs and in the media and was accompanied by more explicit criticism of restrictions on journalists' right to carry out interviews. Stories like this become part of a narrative of resistance that constitutes one aspect of community-building. In this context, *weibo* have created a new space for ironic resistance and have increased the visibility of these protests outside of the community.[53] The speed and interactivity of *weibo* furthermore means that news spreads faster and is more widely shared than in the past.

27 Journalists today may make references to and joke about directives and bans on their *weibo*, which again make them more visible. In May 2011, a number of journalists went to Wuhan to report on the case of Xu Wu, a man who had been involved in petitioning and as a result was sent to a mental hospital.[54] While in Wuhan, they received a directive forbidding them to report on the case. Instead of leaving the city, several journalists stayed on in order to follow developments on the case even though they couldn't report.Wang Sijing, a journalist with *21st Century Business Herald* (*Ershiyi shiji jingji baodao* 21 世纪经济报道), decided to post information about both the ban and

what happened to Xu Wu and his family on her *weibo*. "Early morning. Seven journalists are waiting at the Wuhan police station. Although the ban (*jinling* 禁令) arrived yesterday, we want to ensure that Xu Wu, who has been put in a mental hospital, can be guaranteed an early release." She made this posting in the belief that even though she couldn't report on his case, she should at least let the public know what was happening. [55]

Struggle, solidarity, and rights protection

28 The concept of *weiquan* (维权) mostly comes up in connection with lawyers' and rights-defenders' work to protect other people's rights, or in the context of ordinary citizens who try to defend their own rights. Chinese writers and journalists also face various types of harassment and infringement of their rights, and sometimes even imprisonment for their writings.[56] In many cases this is too sensitive to discuss and report, but when it is mainly local officials and businessmen who harass and intimidate journalists, including initiating libel suits, we see more open protests and shows of solidarity within the journalistic community.[57] Although the ACJA has a special committee working to safeguard journalists' rights, and on some occasions speaks out when journalists have been harassed, journalists do not generally look to the ACJA as an ally in protecting their rights.[58]

29 An important aspect of a community of like-minded journalists is that they not only share similar ideals and aspirations but also speak out in support and solidarity with fellow journalists who have been harassed, dismissed, or charged with criminal offences.[59] Many journalists feel that the community of journalists should offer support in the face of harassment and also link up with other groups such as lawyers. At a meeting on the occasion of the detention of author Xie Chaoping in September 2010, a group of well-known lawyers, scholars, and journalists also discussed other cases of harassment and arrests of journalists, and what could be done to offer support and protect journalists' rights.[60] As one legal reporter put it: "Journalists should have a sense of community [*gongtongti*]...Professional communities of journalists, lawyers, and scholars should come together when they face an 'opponent' [*duishou* 对手]." Another journalist described his experiences when two journalists from his magazine were briefly detained by the local police: "I discovered that a professional community had already been created. When these two events took place [I] made a posting on *weibo* and immediately it was on the front page of Sohu, and journalists then called the county Party secretary and the head of the police...When we are facing a dangerous situation we need to unite."

30 One of the earliest examples of collegial support among journalists was the case of Gao Qinrong, a journalist with *Shanxi Youth Daily*. Gao had investigated corruption in connection with an irrigation project, but was arrested in December 1998 and then in May 1999 was sentenced to 12 years' imprisonment on charges of bribery, embezzlement, and soliciting prostitutes. Several journalists, legal scholars, lawyers, and NPC delegates protested this sentence because they believed the charges were false, but to no avail. Journalists such as Guo Guosong, then with *Southern Weekend*, continued to write on Gao's case and called for justice after the sentence was passed.[61] After Gao was released, several newspapers such as *Southern Weekend* and *Southern Metropolitan News* also published articles on his experience in prison.[62] Several major

cases in the period 2004 to 2006 showed the willingness of journalists to defend principles of autonomy and critical reporting in the face of repression and restrictions, albeit often with little effect. In 2004, *Southern Metropolitan News* was generally perceived as being punished for its outspoken and critical reporting on the Sun Zhigang case when several editors were charged with corruption and sentenced to imprisonment. The charges against them caused great concern, and several prominent lawyers volunteered their services, while many journalists signed a petition protesting the detentions.[63] This so-called "Nandu affair" was a critical event for Chinese journalists, as it showed both their vulnerability in the face of power and their growing sense of community and solidarity.

31 The development of microblogging has made it easier for journalists to protest and show solidarity when their colleagues face harassment, and they do so with little risk to themselves. When the police in 2010 turned up at the office of *Finance* after the magazine had published a report on black jails, the news spread quickly on *weibo* and the journalist community voiced strong concern. In January 2011, when Luo Jieqi, an investigative journalist with *New Century* who was investigating a sensitive case in Ningxia, was followed, harassed, and accused of doing "illegal interviewing" because she didn't have a valid press card, colleagues and lawyers rapidly posted information and the police phone number on their *weibo* to secure her safety. In another case, Ji Xiguang of *Southern Metropolitan News*, who broke the story of a man arrested for holding sex slaves in Luoyang, was questioned by local police about his sources and accused of "revealing state secrets." He rapidly posted information about this on his *weibo* that was forwarded more than 17,000 times and drew 5,833 comments. Ji believes that the postings and resulting phone calls from netizens asking after his whereabouts were very helpful.[64] Other recent cases where journalists have been dismissed or have not had their positions renewed, such as Chang Ping, formerly with the Southern Media Group, have also led to comments and criticism on *weibo*. Although such vocal concern in many cases has not changed the situation, as in Chang Ping's case, the moral support is nonetheless very important.

32 A recent case that elicited an outpouring of sympathy and debate was that of Shi Junrong, a reporter at *Xi'an Evening News* (*Xi'an wanbao* 西安晚报) who was suspended after publishing a story revealing how an official kept a pack of costly cigarettes beside him during a meeting. Sun wrote about his suspension on *weibo*, where it drew considerable sympathy from ordinary citizens as well as fellow journalists. The investigative journalist Cao Lin at *China Youth Daily* (*Zhongguo qingnian bao* 中国青年报) responded with an editorial that reflected on the general implications of the case.[65] The editorial strongly argued for journalists' right to report, and linked powerless and weak journalists with a weak citizenry and nation. Cao Lin also made references to the public's strong support of Sun and watchdog journalism in general.

33 These different cases show that harassment of journalists not only draws concern and protests from within the community, but also sometimes engages other professional groups such as lawyers and public intellectuals, as well as the general public. Several well-known lawyers, such as Pu Zhiqiang and Zhou Ze, have taken on cases related to freedom of speech and the arrest of journalists. In 2009, Zhou Ze compiled a dossier of cases related to violations of journalists' rights that was reported on in *Southern Weekend*.[66] Journalists have likewise expressed concern about the harassment of lawyers. Several well-known investigative journalists forwarded information on blind

lawyer Chen Guangcheng on their *weibo*, which probably helped make his case better known among a broader group in society.

Journalists on weibo: Creating new communities and closer interactions with other social groups

34 A growing and diverse group of Chinese citizens, including ordinary people, journalists, lawyers, scholars, and activists, are today using *weibo* to link up with like-minded people. They post, read, re-post, and comment on current events, protests, and disasters that are often not reported in the traditional media but which lead to public debate that then may find its way into the media. They also use *weibo* to campaign for certain social causes and help individuals as well as to engage in philanthropy. Microblogging by its very nature opens up and demands some level of interactivity among its users. The investigative journalists in my sample follow between 100 and 2,000 people (the maximum on Sina).[67] Although they mainly follow other journalists and each other, further strengthening their distinctive community, they also follow and are followed by other groups that are crucial for their work, such as lawyers, legal scholars, public intellectuals, and famous bloggers. Three of them had as many as 1.7 million, 273,426, and 180,764 followers, respectively (March 2012).[68] Journalists mainly use *weibo* to get information about the latest news, follow hot topics and current debates, and publish and circulate their own reports or those of fellow journalists that they find particularly important. The more active investigative journalists follow more people, re-post more postings from outside of their own media group, are more prone to offer opinions and critical comments on current issues and sudden events, and are more likely to post or re-post calls for help and news about charity work posted by both individuals and civil society organisations. The convenience of posting and reposting microblogs (although they often are censored or deleted) strengthens and expands informal networking beyond the core group of investigative journalists.

The campaign journalist Deng Fei started has become a full-fledged organisation, Mianfei wucan (Free lunches), that in the spring had big advertisements at the Capital airport



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35 It is interesting to note that journalists play a central and important role on *weibo*. Their privileged position and high level of trustworthiness means that their postings are often commented upon and re-posted. Journalists may also find crucial information on *weibo* that is provided by ordinary citizens. The use of smart phones enables people to take photos and upload postings in an instant with low cost and little technological know-how. They can thus provide important input to traditional news production as well as alternative and critical information not found in the traditional media. Recent

cases include the high-speed train crash outside of Wenzhou. Many citizens involved in struggles for justice have also set up their own *weibo* accounts, and they also use *weibo* to get the attention of journalists; the active involvement and help of journalists and other actors are often crucial for their *weibo* postings to have an impact. The case of demolition and self-immolation in Yihuang in September 2010 was probably among the first and at least the most widely published case where journalists and ordinary citizens worked together using *weibo* to publish information about the case. In fact it was two journalists reporting on the case, Liu Chang then at *New Century* and Deng Fei at *Phoenix Magazine* (*Fenghuang zhoukan* 凤凰周刊), who spread information about the case through live broadcast on their *weibo* and also taught family members how to use *weibo*. [69] The investigation into the death of Qian Yunhui in Yueqing, Zhejiang Province, in late December 2010 was also played out on *weibo* and led to cooperation but also divisions among journalists, legal scholars, lawyers, and ordinary citizens, who came to take different positions as the events unfolded.[70]

36 With the advent of *weibo* we are seeing a tendency among some investigative journalists to write and forward posts about different urgent individual cases and social causes, and various activities in the civil society sector. An even more striking phenomenon is their active involvement in different forms of charity work, with some starting fund-raising campaigns that have later developed into registered organisations. In early 2011, two campaigns to help trafficked children were launched on *weibo*. One campaign was organised by the investigative journalist Deng Fei at *Phoenix Magazine*, and the other byYu Jianrong, a sociologist with the Chinese Academy of Social Sciences. Deng Fei later went on to start a fund-raising campaign aimed at providing free lunches for rural children (*Mianfei wucan* 免费午餐) that later developed into a full-fledged organisation. He strategically built on his extensive network among fellow journalists, who came to take a leading role in the campaign and organisation.[71] One of China's most famous investigative journalists, Wang Keqin, has long been interested in and spoken out on different social issues, many of which are rooted in his earlier reporting, such as his work on people with HIV/AIDS and the treatment and imprisonment of activist Tian Xi. He has also reported on the plight of migrant workers with pneumoconiosis and then used his *weibo* account to spread information about their situation. He gathered a group of dedicated volunteers, many of them journalism students and interns, and eventually took the step to set up an organisation that is now officially registered and involved in collecting money to help these workers and their families.[72]

Conclusion: The limitations of freedom of speech and networking in China

37 Chinese investigative journalists have created their own informal meeting spaces and forms of networking that has helped create a sense of community. Their own networking and the spaces provided by other actors, such as scholars, media organisations, and civil society organisations, have enabled them to share experiences and discuss values and journalistic practices outside of the ACJA. Although the informal and ad hoc nature of these meeting spaces makes them easier to sustain, it is also a weakness, as it is not possible to develop full-fledged organisations due to restrictions on setting up professional associations. Furthermore, the fact that the community is

fluid could also be seen as a problem. Many investigative journalists leave their work for other professions after some years, an indication of the pressure they are under and the structural constraints that prevent the community from becoming fully embedded in media organisations and society. The stories and shared values within the community also evolve and are constantly re-defined and negotiated as a result of new developments in society, so that both new identities and new communities emerge. The development of *weibo* is a good case in point. It has created new spaces for community-building among journalists, and even more strikingly has enabled closer interactions between journalists, other professional groups, and ordinary citizens. But although it is natural for investigative journalists to have close contacts with civil society actors, including lawyers, they also need to keep a distance and supervise non-state actors in the same way as state actors and corporate actors in order to fulfil their aspirations as investigative journalists. The new possibilities for journalists to post critical comments on *weibo* and their involvement in charity work may lead to a blurring of their different roles as journalists and citizens. This has also recently begun to be discussed among investigative journalists as they continue to debate and define their roles in a restricted media environment and under the impact of new ICTs.[73]

38 Stern and Hassid have drawn attention to how uncertainties about the boundaries of the permissible create fear among both journalists and lawyers, and they argue that this leads to an "amplifying of silence."[74] Although I wouldn't dismiss the existence of such fears and silences, I argue that we can detect a growing sense of shared ideals and community-building among and between investigative journalists and other groups in society, and that this is facilitated by and made visible through the use of *weibo*. To some extent we can thus talk about an amplifying of resistance and solidarity. But it needs to be acknowledged that these shows of solidarity and protest are rather limited and often quite ineffective. More sensitive cases of imprisoned journalists and net activists are rarely raised, and shows of solidarity cannot rectify underlying problems related to freedom of speech and the press in an authoritarian society. Whereas the agency of Chinese investigative journalists shouldn't be underestimated, and is demonstrated by their ability to negotiate and push through with critical reporting and independent community building, they face formidable structural constraints both at the meso-level of media organisations and at the macro level of political and legal institutions. Finally, on a more general note, whether *weibo* can facilitate the creation of a genuine public sphere in China is open to debate in view of the ad hoc and fragmented nature of public debates on *weibo*, the marginalization of certain voices, and the precarious connection between on-line debate and off-line mobilisation.[75] The fact that domestic microblogging providers have increasingly come under pressure to curtail and censor communication flows on *weibo* and the way different government bodies, including the police, now also try to use *weibo* to get their messages out, reveals the logic and strength of "networked authoritarianism."[76]

NOTES

1. The article builds on a research project on investigative journalists undertaken during the period 2008-2011. The extensive fieldwork included in-depth interviews with some 40 journalists, and attendance at and participation in more than 30 lectures, workshops, and seminars organised by journalists themselves, universities, media organisations, and civil society organisations. Funding for this research has been granted by the Swedish research foundation Riksbankens Jubileumsfond. The author wants to thank the two anonymous reviewers as well as all the Chinese journalists and media scholars who so generously shared their views and time with me over the years. The interpretation and analysis as well as any mistakes are the sole responsibility of the author.

2. For a critical reflection on media and democracy, see James Curran, *Media and Democracy*, London, Routledge, 2011.

3. The concept "custodians of conscience" comes from James Ettema and Theodore L. Glasser, *Custodians of Conscience: Investigative Journalism and Public Virtue,* New York, Columbia University Press, 1998.

4. For a recent analysis on civil society, see Anthony Spires, "Contingent Symbiosis and Civil Society in an Authoritarian State: Understanding the Survival of China's Grassroots NGOs," *American Journal of Sociology*, vol. 117, no. 1, July 2011, pp. 1-45. On on-line networking and civil society engagement, see Yang Guobin, *The Power of the Internet in China: Citizen Activism Online*, New York, Columbia University Press, 2009.

5. William A. Callahan, "Shanghai's Alternative Futures: The World Expo, Citizen Intellectuals, and China's New Civil Society," *China Information*, vol. 26, no. 2, 2012, pp. 251-273.

6. For different studies on the complex media and society relations in China, see Susan L. Shirk (ed.), *Changing Media, Changing China*, New York, Oxford University Press, 2011.

7. *Southern Weekend* in 2010 organised a special activity called Promoters of the China Dream in which different intellectuals, artists, and one journalist, investigative journalist Wang Keqin, were awarded. See *Southern Weekend*, www.infzm.com/content/48514 (consulted on 13 August 2012).

8. For recent overviews of the development of investigative journalism in China, see Tong Jingrong and Colin Sparks, "Investigative Journalism in China Today," *Journalism Studies*, no. 1, 2009, pp. 1-16, and Tong Jingrong, *Investigative Journalism in China: Journalism, Power, and Society*, New York, Continuum, 2011.

9. See for example Li-Fung Cho, *The Emergence, Influence, and Limitations of Watchdog Journalism in Post-1992 China: A Case Study of Southern Weekend*, Ph.D. dissertation University of Hong Kong, Journalism and Media Studies Centre, 2007;Tong and Sparks, *op. cit.*;Tong, *op. cit.*; and Wang Haiyan, "How Big is the Cage? An Examination of Local Press Autonomy in China," WPCC, vol. 7. no. 1, 2010, pp. 56-72.

10. See for example David Bandurski and Martin Hala (eds.), *Investigative Journalism in China: Eight Cases in Chinese Watchdog Journalism*, Hong Kong, Hong Kong University Press, 2010.

11. See in particular Zhang Zhi'an, *Jizhe ruhe zhuanye: Shendu baodao jingyingde zhiye yishi yu baodao celuo* (Journalists' professionalism:The professional awareness and reporting strategies of indepth journalists), Guangzhou, Nanfang ribao chubanshe, 2007, and *Baodao ruhe shenru: Guanyu shendu baodao de jingying fangtan ji jingdian anli* (In-depth reporting: Interviews and classical cases of in-depth reporting), Guangzhou, Nanfang ribao chubanshe, 2006

12. Zhang Zhi'an and Shen Fei, *Zhongguo diaocha jizhe hangye shengtai baodao* (A report on the situation of the profession of Chinese investigative journalists), *Xiandai chuanbo*, vol. 10, 2011.

13. Barbie Zelizer, "Journalists as interpretive communities," *Critical Studies in Mass Communication*, no. 10, 1993, pp. 219-237.
14. See Rodney Benson and Erik Neveu (eds.), *Bourdieu and the Journalistic Field,* Cambridge (England), Polity, 2005.
15. Zhao Yuezhi, making use of field-theory, has for example argued that there is a neo-liberal bias in *Southern Weekend* and a "discursive alliance" between the weekly and liberal intellectuals. See Zhao Yuezhi, "Your Show's Been Cut: The Politics of Intellectual Publicity in China's Brave New Media World," *Javnost - The Public*, vol. 19, no. 2, 2012, pp. 101-118. However, I would argue that the picture is more complex, as the weekly and other critical media also give ample place to voices that advocate rights protection of marginalized groups.
16. See also Teng Biao in this issue.
17. Personal observations at several workshops and events on HIV/AIDS, children's rights, migrant workers, and environmental issues during the period 2008-2012.
18. For examples from the environmental field, see Guobin Yang and Craig Calhoun, "Media, Civil Society, and the Rise of a Green Public Sphere in China," *China Information*, vol. 21, no. 2, 2007, pp. 211-236.
19. On the concept and development of *yulun jiandu*, see Cho, *op. cit.*, and "The Emergence of China's Watchdog Reporting," in Bandurski and Hala, *op. cit.*, pp. 165-173.
20. On the development of *Southern Weekend* see Cho, *op. cit.*, and on *Southern Metropolitan News*, see Tong, *op. cit.*
21. On the relationship between the media and the courts, see Benjamin L. Liebman, "Watchdog or demagogue? The media in the Chinese legal system," *Columbia Law Review*, no. 105, 2005, pp. 1-157. For examples of how citizens seek publicity in the media to push their cases, see also Marina Svensson,"Heritage Struggles and Place-Makings in Zhejiang Province: Local Media, Cross-Regional Media Interactions, and Media Strategies from Below," in Wanning Sun and Jenny Chio (eds.), *Mapping Media in China: Region, Province, Locality*, London, Routledge, 2012.
22. For an analysis of the ups and downs of investigative reporting, see Tong and Sparks, *op. cit.*; and for a Chinese journalist's take, see Wang Keqin, "Diaochaxing baodao jiben wenti shuli," (Reviewing the basic issues of investigative reporting), http://blog.sina.com.cn/s/blog_655f81d50102dqxy.html (consulted on 13 August 2012), with a partial translation by China Media Project at http://cmp.hku.hk/2011/07/15/13862 (consulted on 13 August 2012).
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25. Jonathan Hassid, "Four models of the fourth estate: A typology of contemporary Chinese journalists," *China Quarterly*, no. 208, 2011, pp. 813-832. Other scholars have provided other ways to define and categorise Chinese journalists.
26. For an analysis of these differences, see for example Qian Gang and David Bandurski, "China's Emerging Public Sphere: The Impact of Media Commercialization, Professionalism, and the Internet in an Era of Transition," in Susan Shirk (ed.), *op. cit.*, pp. 38-76.
27. It is important to remember that investigative journalists in the West also exhibit quite different values and ideals, including old-style muckraking, professional ideals of objectivity, and more "leftist" investigative journalism that criticises the capitalist order.
28. See ZhaoYong and Ni Dingding, "Zhongguo jiehei jizhe:Wei jie zhenxiang miandui baoli he guansi" (China's Muckrakers: Meeting violence and being sued when trying to reveal the truth), *Xiandai kuaibao*, 5 December 2010, http://news.sina.com.cn/c/sd/2010-12-05/042421583651.shtml (consulted on 13 August 2012).

29. Fu Jianfeng, "Zhege shidai zhenzai xingcheng de yige zhiye gongtongti" (This era is creating a professional community), *Nanfang zhoumo*, 9 November 2009, http://gcontent.oeeee.com/5/ae/5ae61e13278118c2/Blog/2ba/78431c.html (consulted on 13 August 2012); and, "Dui xinwen zhiye gongtongti de yuanjing" (The vision of a journalistic community), *Nanfang chuanmei yanjiu* no. 26, 2010. See also other articles on the topic of a journalist community by journalist Shen Feike and media scholars such as Zhan Jiang, Tong Xi, and Zhang Zhi'an in *Nanfang chuanmei yanjiu* no. 26, 2010, http://media.nfdaily.cn/cmyj/26 (consulted on 13 August 2012).
30. See the special issue of *Nanfang chuanmei yanjiu* no. 26, 2010.
31. Information from interviews with journalists. See also Ju Jing, "Shendu baodao shengchan fangshi de xin bianhua – Shendu baodao jizhe QQ qun chutan" (A new change in the mode of production of in-depth reporting: A first exploration of QQ groups among in-depth journalists), *Xinwen jizhe*, no. 1, 2012, http://xwjz.eastday.com/eastday/xwjz/node595770/node595771/u1a6319393.html (consulted on 13 August 2012).
32. See Sina Tech's report, "Zhongguo jizhe shejiao meiti shiyong baogao: 78% shouxuan Xinlang weibo" (A report on the social media use among Chinese journalists: 78 percent prefer Sina weibo), Sina Tech, 11 December 2010, http://tech.sina.com.cn/i/2010-12-11/10314971318.shtml (consulted on 13 August 2012).
33. Zhang and Shen, *op. cit*.
34. Zhang Zhi'an, "Xinwen shengchan de biange: Cong zuzhihua xiang shehuihua: Yi weibo ruhe yingxiang diaochaxing baodao wei shijiao de yanjiu" (The reform of news production from organisational to social production: Research on how *weibo* have influenced investigative reporting), *Xinwen jizhe*, March 2011, http://xwjz.eastday.com/eastday/xwjz/node528384/node528385/u1a5749666.html (consulted on 13 August 2012).
35. The organisation has a website with information about their salons and summaries of each event, as well as publications and reports. See http://chinagev.org/index.php/greenpro/huanjingjizhe and http://chinagev.org/index.php/greenpro/huanjingjizhedc (links consulted on 13 August 2012).
36. Information comes from interviews with one of the founders and with different participants, participation in four salons during 2009-2010, and a reading of proceedings from the events.
37. These conferences have always been called *yulun jiandu* in order to benefit from the official sanctioning of this type of reporting. But when journalists talk about their reporting they mostly use terms such as *diaocha baodao* (investigative reporting) or *shendu baodao* (in-depth reporting).
38. A couple of books from the first conferences have been published: Zhan Jiang, *Yulun jiandu zipi shu* (The purple book of public supervision), Guangzhou, Nanfang ribao chubanshe, 2004; and *Zhongguo yulun jiandu niandu baogao* (The annual report of China's watchdog journalism), Beijing, Shehui kexue wenxian chubanshe, 2006. Later conferences exist only as conference proceedings, on file with the author.
39. The author attended seven such lectures in June 2011. There were also live broadcast on *weibo* from the lectures, ensuring a larger audience.
40. For their projects see http://nd.oeeee.com/nanyuan/news/default.shtml (consulted on 13 August 2012).
41. For information about *Caijing*'s programme, see http://corp.caijing.com.cn/fellowship (consulted on 13 August 2012).
42. For information about this and other programmes, see http://corp.caixin.com/fellowship (consulted on 13 August 2012).
43. The journal is available online at http://media.nfdaily.cn/cmyj/36/default.htm (consulted on 13 August 2012).
44. See ICCD's web site at www.iccd.biz/temp/about.html (consulted on 13 August 2012).
45. See IMS's web site www.i-m-s.dk/content/china (consulted on 13 August 2012).

46. On the Sun Zhigang case see Keith J. Hand, "Using law for a righteous purpose: The Sun Zhigang incident and evolving forms of citizen action in the People's Republic of China," *Columbia Journal of Transnational Law*, vol. 45, no. 1, 2006, pp. 114-195.

47. For a discussion on recent important legal cases, see also Teng Biao's article in this issue.

48. For Qian Gang's take on media coverage of the earthquake, see "Looking back on Chinese media reporting on school collapses," *China Media Project*, 7 May 2009, http://cmp.hku.hk/2009/05/07/1599 (consulted on 13 August 2012).

49. The DengYujiao case, for example, led to soul-searching among some journalists who were initially too uncritical of both the defence lawyers' statements and those of netizens. See special issue of *Nanfang chuanmei yanjiu*, no. 19, 2009. I also base this on my interviews with journalists involved in the case and from attending seminars discussing it.

50. See analyses and reports put together by China Digital Times, http://chinadigitaltimes.net/2010/03/journalists-twitterers-and-the-media-demand-apology-from-hubei-governor-lihongzhong (consulted on 13 August 2012), and China Media Project, http://cmp.hku.hk/2010/03/14/4936 (consulted on 13 August 2012).

51. His statement was also criticised by Party media worrying about his juxtaposing of the Party and the people. See for example an editorial in *Workers Daily,* 19 June 2009, http://news.xinhuanet.com/house/2009-06/19/content_11566778.htm (consulted on 13 August 2012).

52. See reports in *Beijing News*, https://news.qq.com/a/20100829/000525.htm (consulted on 13 August 2012), and *Caijing*, www.caijing.com.cn/2010-08-29/110507663.html (consulted on 13 August 2012).

53. On ironic forms and resistance on the Internet in general, see Yang, *op. cit.*

54. Interviews with a number of journalists following the case and a reading of their microblogs.

55. See the microblogs of Wang Sijing's and others, as well as Wang's article "Jinling hou, jiu gai jinsheng ma?" (Should one remain silent after the ban?), http://blog.sina.com.cn/s/blog_5408ee8501017xaj.html (consulted on 13 August 2012). For discussions on this case and how journalists use weibo see also the no. 26 and no. 30 of Nanfang chuanmei yanjiu, including Wang Sijing's articles.

56. Currently some 27 writers, net activists, and freelance journalists are imprisoned in China. See Committee to Protect Journalists, http://cpj.org/imprisoned/2011.php (consulted on 13 August 2012).

57. See, for example, "Jizhe caifang lüzao baoli zurao: Jiu wei zhuanjia xuezhe fabiao kanfa" (Journalists facing repeated violence and obstruction when interviewing: Nine experts express their views), *Zhongguo xinwen chuban bao*, 30 August 2011, http://news.sina.com.cn/m/2011-0830/140223075438.shtml (consulted on 13 August 2012); and "Jizhe caifang pinpin yuzu, 2010 nian zhijin 70 yu qi" (More than 70 cases of harassment of journalists during interviews from 2010 to today), *Zhongguo xinwen chuban bao*, 30 August 2011, http://news.sina.com.cn/m/2011-08-30/121423075126.shtml (consulted on 13 August 2012).

58. The ACJA in 1998 established a Committee to Protect the Rights and Welfare of Journalists. It gathers information on abuse of journalists and occasionally speaks out when journalists' rights are violated. See, for example, Fan Yicha, "Jixie weiquan, neng geng you zuowei ma?" (Can ACJA work better to protect rights?), *Nanfang chuanmei yanjiu,* no. 26, 2010, http://media.nfdaily.cn/cmyj/26/02/content/2010-11/09/content_17426510.htm (consulted on 13 August 2012). See also Chen Yingqi, "ACJA calls for better protection for reporters," *China Daily*, 9 August 2010, www.chinadaily.com.cn/china/2010-08/09/content_11117523.htm (consulted on 13 August 2012).

59. On journalists' attempts to speak out when their rights are violated and the limitations of such struggles, see also Jonathan Hassid, "China's contentious journalists: Reconceptualising the media," *Problems of Post-Communism*, vol. 55, no. 4, 2008, pp. 52–61; and Madeline Earp, *In China,A*

Debate on Press Rights, Committee to Protect Journalists, October 19 2010, http://cpj.org/reports/2010/10/in-china-a-debate-on-press-rights.php (consulted on 13 August 2012).
60. Observations from the event and quotes from the proceedings.
61. See Guo Guosong, "Fan fu jizhe pilu zhenxiang yihou" (What happened after an anti-corruption journalist disclosed the truth), *Nanfang zhoumo*, 11 January 2001, www.people.com.cn/GB/shehui/20010112/377151.html (consulted on 13 August 2012); and "Guanyu Gao Qinrong shijian de linxing jiyi" (Scattered memories of the Gao Qinrong case), http://bbs.gz163.cn/forum.php?mod=viewthread&tid=129655 (consulted on 13 August 2012).
62. Ma Changbo, "A journalist's eight years in prison," *Nanfang zhoumo*, 14 December 2006, English translation available at http://www.zonaeuropa.com/20061218_1.htm (consulted on 13 August 2012).
63. For information on this, see China Digital Times, http://chinadigitaltimes.net/2005/06/journalists-protest-detention-of-colleagues (consulted on 13 August 2012).
64. See Ji Xiguang, "Luoyang 'xing nu' shijian shui de 'guojia jimi'?" (Whose state secret is the Luoyang sex slave case?), *Southern Metropolitan News*, 23 September 2011, http://gcontent.oeeee.com/d/20/d20be76a86c0d71c/Blog/712/56778f.html (consulted on 13 August 2012).
65. For an analysis and full translation of the editorial, see David Bandurski, "No power for media, no power for citizens," China Media Project, 3 July 2012, http://cmp.hku.hk/2012/07/03/24929 (consulted on 13 August 2012).
66. See He Zhongzhou, "Yulun jiandu zhengzai zaoyu xin weixian? Jizhe quanyi de minjian guancha baogao" (Is public supervision meeting new dangers? A civic investigative report on journalists' rights and interests), *Nanfang zhoumo*, 11 November 2009, http://www.infzm.com/contents/37222 (consulted on 13 August 2012).
67. Marina Svensson, "Chinese Journalists on Weibo: New Journalistic Identities, Practices and Challenges," Unpublished paper presented at a conference organised by the British Academy, London, 9 March 2012.
68. It should be noted that it is rather problematic to measure public impact by the number of followers, as followers don't necessarily read the postings or actively engage with what they read. A more interesting measure of popularity and impact is therefore the extent to which postings elicit comments or are re-posted.
69. For Deng Fei's own account of how the Yihuang case developed, see "Jizhe zongjie weibo tuidong Yihuang chaiqian zifen chengwei gonggong shijian quancheng" (A journalist summarises the whole story of how *weibo* turned the Yihuang self-immolation case into a public event), *Shidai zhoubao*, 14 October 2010, http://news.ifeng.com/society/special/yihuangzifen/content-2/detail_2010_10/14/2780291_0.shtml (consulted on 13 August 2012). See also information on the case provided by Global Voices, http://globalvoicesonline.org/2010/09/21/china-yihuang-self-immolation-incident-and-the-power-of-microblogging (consulted on 13 August 2012).
70. On this case, see XiyunYang and Edward Wong, "Suspicious Death Ignites Fury in China," *The New York Times,* 28 December 2010, www.nytimes.com/2010/12/29/world/asia/29china.html (consulted on 13 August 2012); and the citizen report, "Gongmeng QianYunhui zhi si diaocha baogao" (The Citizen Alliance's investigative report on the death of QianYunhui), http://xuzhiyong.fyfz.cn/art/874568.htm (suppressed; accessible at http://laws.fyfz.cn/art/902361.htm [consulted on 13 August 2012]).
71. For Deng Fei's own account of the development of the organisation, see *Nanfang chuanmei yanjiu*, no. 31, 2011, http://media.nfdaily.cn/cmyj/31/03/content/2011-09/06/content_29460449.htm (consulted on 13 August 2012).
72. For information on the organisation Love Save Pneumoconiosis and its activities, see www.csaf.org.cn/cn/dust_lung/index.html (consulted on 13 August 2012).

73. A debate on journalists' roles and use of *weibo* has been underway since 2011; see, for example, the articles in *Nanfang chuanmei yanjiu*, no. 30, 2011.
74. Rachel E. Stern and Jonathan Hassid, "Amplifying Silence: Uncertainty and Control Parables in Contemporary China," *Comparative Political Studies*, vol. XX, no. X, 2012, pp. 1-25.
75. For discussion on the Internet and social mobilization, see Hu Yong, "China: The Internet and Grassroots Mobilization," in Ip Iam-Chong (ed.), *Social Media Uprising in the Chinese-speaking World*, UP publication, Hong Kong, 2011.
76. For the concept and workings of "networked authoritarianism," see Rebecca MacKinnon, *Consent of the Networked: The Worldwide Struggle For Internet Freedom*, New York, Basic Books, 2012.

ABSTRACTS

Although Chinese journalists are not able to create their own independent organisations, they are engaging in informal networking on-line and off-line that has created a strong sense of community among investigative journalists in particular.[1] Through sharing experiences, stories, and struggles, journalists create a collective identity and define their roles in society. Earlier studies of Chinese journalists haven't explicitly addressed the issue of how a journalistic community is created and sustained in a society that lacks freedom of the press and where freedom of association is severely restricted, and the importance of new information and communication technologies (ICTs) in this context, which is the focus of this article. Furthermore, it is important to study the extent to which and how investigative journalists network with other groups in society, including lawyers, public intellectuals, and civil society organisations. With the development of micro-blogging (weibo) we see new forms of community building, more open expressions of solidarity and ironic resistance, as well as increasing levels of interactivity between different groups in society. By reporting on injustices and the situation of marginalized groups in society, and commenting on public events on weibo, investigative journalists interact with many different groups in society and become part of a larger community of people who share the same ideals and struggles. Some journalists go one step further and set up or become actively involved in charity work and civil society organisations.

INDEX

Keywords: investigative journalism, interpretive community, relationship media and society, civil society, networking, microblogging, weibo, freedom of speech

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Rights Defence (*weiquan*), Microblogs (*weibo*), and Popular Surveillance (*weiguan*)

The Rights Defence Movement Online and Offline

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1 China's rights defence movement has not long been a focus of attention, but its background, significance, and strategies, as well as key personalities and cases, have been analysed in an increasing number of articles. This article will mainly analyse how legal professionals in the rights defence movement use the Internet – in particular social media such as microblogs (*weibo*) – in various rights defence activities, as well as the influence that the Internet is likely to have on the movement.

The rise of the rights defence movement and its social factors

2 The year 2003 is generally regarded as a symbolic year for the rights defence movement (*weiquan yundong* 维权运动). Cases such as Dr. JiangYanyong's exposure of the true face of the SARS crisis,[1] the death of a young university-educated designer, Sun Zhigang, in a Custody & Repatriation centre, the arrest of village financier Sun Dawu,[2] the Li Siyi incident,[3] the arrests of Internet activist Liu Di[4] and Internet essayist Du Daobin,[5] the participation of independent candidates in local-level people's congress elections, and other such public incidents attracted the participation of lawyers, scholars, journalists, and dissidents and had enormous social repercussions. At the end of 2003, scholars began to refer to 2003 as the year when China's "new civil rights movement" (*minquan yundong* 民权运动) was launched.[6] Not long afterward, the phrase "rights defence movement" increasingly replaced "civil rights movement" and became a focus of analysis by foreign media and some China watchers. A seminal moment occurred at the

end of 2005, when *Yazhou Zhoukan* made 14 "Chinese rights defence lawyers" its collective "persons of the year."[7]

3 The rights defence movement has overlap and affiliation with the dissident movement and the democracy movement (*minzhu yundong* 民主運動). He Qinglian believes that the rights defence movement mainly demands personal rights, while the democracy movement demands public power.[8] Hu Ping's comparison of the two concludes, "The rights defence movement has increasingly moved from spontaneous to conscious. In today's China, rights defence activities are drawing ever closer to the democracy movement, the two combined constituting a powerful force promoting political reform."[9]

4 The Internet has made communications between various intellectuals and activists extremely frequent and convenient. The identities of rights defenders and democracy activists are increasingly merging and overlapping. The consensus among the various parties is progressively enlarging, and they are jointly participating in an ever greater number of activities. Although the rights defence movement and democracy movement have different emphases, a trend of mutual support, cooperation, and collaboration has emerged.

5 The main social factors in the rise of China's rights defence movement are as follows:

(a) *Development of the legal system and legal profession*. After the Cultural Revolution ended, China's legal system embarked on a difficult resurrection process. In particular, the introduction of the Administrative Procedure Law (1989), the introduction and refinement of the Criminal Procedure Law (1979, 1997), the restoration of the legal profession through the introduction of the Law on Judges (1995), Law on Procurators (1995), and Law on Lawyers (1996), and the implementation of nationally unified judicial examinations provided legal and litigative channels for defending civil rights, as well as the embryo of a legal professional community. At the same time, traditional ideological discourse ("class struggle," "Cultural Revolution") had to be abandoned, and the authorities moved toward a new ideological discourse and strategy exemplified by "reform and opening," "ruling the country in accordance with law" (*yifa zhiguo* 依法治国),[10] "Three Represents," and "harmonious society." In particular, putting forward "rule of law" and adding "human rights" to the Chinese Constitution made it possible for civil society to turn these concepts into more than just empty phrases. Rule of law discourse coupled with laws and regulations provided space for rights defence activities. The very influential Sun Zhigang case in 2003 was a classic example of using official discourse and the legal system to carry out a civil campaign.[11]

(b) *Space for traditional and new media*. Although traditional media are strictly controlled,[12] they are not completely bereft of space. While under pressure from official ideology and censorship, they also face the pressure of the market. For this reason, the traditional media (journalists with a sense of social responsibility) regularly employ strategies that allow some hot button rights defence issues to appear in print.[13] In addition, the rise of online media has greatly challenged the official media monopoly, changing China's discourse ecology and even the concept of the media. As a result it will have a tremendous influence on China's rights defence movement and political transformation.

(c) *Space for civil activity enlarged by development of the market economy*. Although China's rapid economic development has brought many problems, such as vast income disparity, government-business collusion, and environmental depredation, there is no denying that the vast majority of ordinary people have seen their living standards enhanced, and this has provided an economic foundation for the rights defence movement. Resource mobilisation theory emphasises the discretionary time and money needed for social movements.[14]

(d) *Dissemination of liberal thought* (*ziyouzhuyi sixiang* 自由主义思想) *and expanded consciousness of civil rights*. "In the latter half of the 1990s, a major trend among China's intellectuals was the resurrection of liberalism by a group of scholars who intended through reflection, research, and advocacy of liberalism to fully realise modernisation and give expression to the resources of principle and thought of constitutional democracy."[15] Publishers introduced a large number of liberal works and translations, and intellectual circles expressed enormous interest in the dissemination of liberalist thought. "Upon entering the minds of the Chinese, the theories of liberalism inevitably entered their daily lives."[16] At the same time, the public's rights consciousness and awareness of rule of law was also growing. This formed the conceptual basis for the rights defence movement. Furthermore, the process of economic development was accompanied by a progressive relative deprivation, which provided the socio-psychological conditions for the rights defence movement.[17]

(e) *The efforts of democracy activists*. In the years following 1989, students and ordinary citizens who had participated in the democracy movement suffered severe repression, and society was permeated with an atmosphere of desolation and terror. Even so, protests and efforts in the fight for democracy were never abandoned. The Tiananmen Mothers Campaign,[18] the open letter movement,[19] the organisation of political parties, underground publications, and other such activities of civil dissent continued unabated, accumulating resources of morality and justice and to a certain degree expanding the space for civil society activities. In this way, the rights defence movement was a successor to the democracy movement.[20]

The development of China's Internet

6 In China, the rise of the rights defence movement and the development of the Internet evolved simultaneously and influenced each other.[21] China formally joined the Worldwide Web in 1994, and by the end of 1996, there were 200,000 Internet users in China. The rights defence movement's signal year, 2003, was also known as the year of "Internet discussion" as China's netizens became aware of their power to change the course of events through the Internet.[22] The statistics at the end of 2003 were: 79,500,000 netizens in China; 30,890,000 computers connected to the Internet; and 596,000 websites with a .cn registration. The number of people online at the end of 2004, 2006, 2008, and 2010 reached 94 million, 137 million, 298 million, and 457 million, respectively. As of the end of June 2012, 539 million Chinese were online, with the Internet accessible to 39.9 percent of the population, and 388 million Chinese accessed the Internet through cell phones, for the first time exceeding the number using computers, 380 million. The number of people with immediate communication access has reached 445 million, and 251 million Chinese access social media websites. China's netizens spend an average of 19.9 hours online every week.[23]

7 The "Web 2.0" concept that emerged in 2004 quickly spread to China. Characterised by user sharing, information gathering, the assembling of social groups around points of interest, and user-to-user interaction, it has turned Internet users from browsers to creators of online content. Web 2.0 products include Skype, Twitter, Wiki, Facebook, Youtube, Flickr, QQ, MSN, Renren, and microblogs, among others.[24] The interactive nature of Web 2.0 and its rapid transmission and transparency of information, supported by the simultaneous development of cellular phones and other such technologies, greatly facilitated the organisation of social movements. In this way,

Web 2.0 changed the face of social movements and became an effective tool for promoting democracy on the global scale.

8 In March 2006, Twitter burst onto the scene, pulling everyone into the world of microblogs (*weibo*). Twitter was imitated by Chinese enterprises, with the May 2007 establishment of Twitter clone Fanfou launching China's *weibo* era. Other clones called Jiwai, Zuosha ("Wassup?"), and Tencent followed in close succession. Another large batch of microblogging sites, including Digu, Jishike, Fexion, 9991 Microblog, Tongxue, and Follow5, went online in 2009. The Sina microblog website went live in August 2009 and quickly became China's most influential microblogging site. With the establishment of aggregate gateway microblogs (t.163,Tencent, and Sohu microblogs going online in January, March, and April 2010 respectively), vertical gateway microblogs, news microblogs, e-commerce microblogs, SNS microblogs, and independent microblog websites, China formally entered the *weibo* era.[25]

9 Technical features made it impossible for the Chinese government to directly delete Twitter feeds. This made Twitter enormously effective for reporting sudden hotspot events and sensitive incidents, and inevitably attracted large numbers of rights defenders, citizen journalists, independent writers, and liberal-minded netizens. The day after the July 5 disturbances in Urumqi in 2009, Twitter was blocked off. (Facebook was blocked on July 7.) Even so, some Chinese account-holders accessed Twitter through various methods such as API proxies Twip and Tweetr, third-party platforms or software such as Dabr and Twitese, or firewall-circumventing proxies such as Freegate, Ultrasurf, or VPN.[26] Although only a small number of people actively use Twitter in China, it is widely used by rights defence lawyers, citizen journalists, and other activists determined to preserve their freedom of expression. Some Twitter users encourage others to register and use microblogs inside China, because these have more traffic. Other Twitter users promote proxies and Twitter, because these platforms provide access to large amounts of information that is censored in China.

10 China's microblog and cellular telephone usage has developed at lightning speed. As of the end of March 2012, the Tencent, Sina, and t.163 microblogs had 425 million, 324 million, and 120 million registered users respectively.[27] By May 2012, Sina microblogs sent out an average of more than 100 million content items per day, with average online access of around 60 minutes.[28] At the end of February 2012, China had 1.007 billion cell phone users, among whom 3G account-holders numbered 144 million and rising.[29] As of the end of June 2012, people blogging from their cell phones numbered 170 million, with a usage rate of 43.8 percent among people who access the Internet through their cell phones.[30] "The combined use of microblogs and cell phones is an extension of online interactive behaviour that allows netizens to maintain a shifting linearity. More crucially, microblog users can draw on cell phone media to become spot news reporters, indirectly and rapidly reporting events as they happen."[31]

Individual rights defence: In the courtroom and on the Internet

11 The typical work of rights defence lawyers is advocacy. Gaining familiarity with the law, investigating evidence, and fighting for the rights of litigants have therefore become the fundamental tasks of rights defence work. This alone does not constitute a rights defence movement, however. The greatest problem of China's judicial system is

that the judiciary is not independent and there is no effective supervision of the unlawful activities of public security organs, procuratorates, and courts. In almost all human rights cases, "judges don't pass judgment, and those who pass judgment don't appear at trial"; trials are mere window-dressing, and the actual power to adjudicate lies outside of the courtroom. Due to the central-regional government dynamic in China's post-totalitarian system, the desire of local officials to minimise unrest during the current emphasis on stability preservation,[32] and public opinion becoming a consideration in the handling of crises or sensitive incidents, rights defenders try to use the media to influence the judicial outcomes of certain cases.[33] Given the lack of judicial and media independence, a very complex relationship has emerged between the judiciary and popular will. Regarding certain hot-button issues, rights defenders have used the Internet to exert the pressure of public opinion in a way that has increased the cost of judicial injustice. Without constant public monitoring and efforts through the Internet, some cases would end up with defendants being framed, or with the judiciary acting in a peremptory or evasive manner. Concern over individual cases; open letters, petitions, and Internet postings; and rights defence actions by lawyers, journalists, and intellectuals have combined to give rise to an increasingly law-conscious and public-spirited populace.[34] Liu Xiaobo believes that non-violent rights defence campaigns "put freedom into practice through the use of enlightened thought, expression, and rights defence activities in the details of daily life; and especially through the sustained accumulation of individual rights defence cases, they build up a sense of morality and justice, organisational resources, and tactical experience among the people."[35]

12 Trainee lawyer Wang Daogang was detained over the matter of a 3,000 *yuan* lawyer's fee. In March 2012, lawyer Cheng Hai posted the indictment and defence statements for the case on a microblog. Once the prosecution learned of this, it posted its own "factual basis" and "legal basis" on the Internet. After studying the case, some lawyers felt that Wang's action did not constitute a crime but only a disciplinary infraction, and they suggested that a professional grudge might be behind the case. Lawyer Liu Yang then took the lead in publishing online an "Urgent Appeal Demanding that the Haidian District People's Court Declare Trainee Lawyer Wang Daogang Not Guilty," which was signed by 118 lawyers. Soon afterward, the procuratorate withdrew the charges.[36] This case is an example of how once a case becomes public on the Internet and brings pressure to bear, officials are compelled to respond in some way, and sometimes will compromise.

13 Following the Sun Zhigang case, public attention on the Internet has resulted in changes to some decisions. For example, in the cases of Sun Dawu, Deng Yujiao,[37] Cui Yingjie,[38] Xu Ting,[39] the Chongqing Nail House,[40] Li Zhuang,[41] Guo Baofeng, Wu Ying,[42] and the "five Guangzhou gentlemen holding placards,"[43] it can be said with certainty that without the attention brought to the cases on the Internet, the fates of the persons concerned would have been quite different. Rights defence in these cases led to the emergence of some enthusiastic and appealing human rights lawyers, as well as many outstanding grass roots rights defence activists and citizen journalists. In addition, interaction with members of the public and constant contact and collaboration gave rise to an informal circle of rights defenders and increased organisational abilities in rights defence campaigns. The noteworthy "legal team" phenomenon emerged and

became apparent against this background. The development of the Internet, in particular the social media, greatly accelerated the emergence of teamwork by lawyers.

14 The cases of Cai Zhuohua,[44] Dongyang's Huashui Village,[45] the Three Grades of Servants church,[46] Taishi Village,[47] Chen Guangcheng, Wang Bo (a case of religious freedom for Falun Gong), and the melamine-tainted milk powder scandal all involved collective participation by multiple lawyers. In early 2007, a coalition of Christian rights defence lawyers was established. Once microblogs became an important medium for communication, linkups, cooperation, and the development of collective action among lawyers became even easier and more cost-effective. Guangdong-based *Southern Exposure* magazine perceptively noted the social significance of these legal teams, and referred to 2011 as the year of collective legal action: "If it is said that the legal teams in the Li Zhuang case and Beihai case were examples of a professional community pulling together, then the legal teams in the subsequent Suzhou 'Changshu six youths' case and Guizhou 'Li Qinghong mafia case' demonstrated the extension of common cause-type legal teams to other kinds of cases."[48] In the example of the Guizhou Li Qinghong mafia case, more than 100 lawyers were involved at various times, and a good portion of them were lawyers who enjoyed considerable influence through their microblogs. Lawyers used microblogs to post news about the case, to accuse prosecutors and judges of procedural violations, to expose the extortion of confessions from their clients through torture, to expose how their clients had been intimidated into dismissing legal counsel, to post open petition letters, and to appeal for other lawyers to join in. Apart from defence lawyers, some other lawyers and scholars came forward to attend the trial, or to investigate or lend moral support, and many netizens followed, discussed, and forwarded the postings, maintaining sustained Internet traffic on an unprecedented scale.

The "surrounding gaze": The Internet and rights defence outside the courtroom

15 Apart from teaming up on cases, rights defence activists committed to the concept of rule of law attempt to promote it at an even deeper level. In this connection, the term *weiguan* (围观) has recently appeared. The University of Hong Kong's China Media Project has coined the English translation "surrounding gaze," with the following explanation: "The 'surrounding gaze' is the notion, rooted in modern Chinese literature and culture, of crowds of people gathering around some kind of public spectacle. [...] The term can now point to the social and political possibilities of new communications technologies, such as the Internet and the microblog, which might, say some, promote change by gathering public opinion around certain issues and events. The term *weiguan* can refer to the larger phenomenon of the 'surrounding gaze,' including its pejorative sense, but also often refers to its positive or potential dimension as concentrated public opinion. The term 'online surrounding gaze,' or *wangluo weiguan*, is also commonly used today."[49] This section will discuss various aspects of the "surrounding gaze."

Challenging "evil laws"

16 Apart from defending their clients' rights in cases, rights defence lawyers also employ various means to promote change in the legal system. The Sun Zhigang case led to the

abolition of the Custody and Repatriation system. After Du Daobin was arrested in 2003, more than 100 intellectuals and rights defenders in China issued an "Appeal Demanding a Legal Explanation of the 'Crime of Inciting Subversion.'" Legal practitioners used various means to collectively appeal for abolition of the Re-education Through Labour system. For example, in November 2007, Mao Yushi, He Weifang, and others (most of them legal practitioners) jointly signed a "Citizens' Proposal to Launch an Investigation into Violations of the Constitution and to Abolish the Re-education Through Labour System."[50] In the defence statement for the 2007 Wang Bo case, defence counsel openly challenged each of the laws and judicial interpretations that penalised practitioners of Falun Gong.[51] In 2010, lawyer Yang Jinzhu prepared to collect signatures from 10,000 lawyers for a proposal that the Supreme People's Court issue a judicial interpretation of Article 306 of the Criminal Law (the crime of perjury by lawyers), but was halted by the Hunan judiciary.[52] There have also been many campaigns by activists demanding abolition of China's family planning policies. While the National People's Congress was discussing the draft amended Criminal Procedure Law in 2012, members of the public expressed particular concern regarding some provisions that were contrary to the spirit of rule of law, and many rights defenders called for an end to "evil laws" (*e fa* 恶法).[53]

Promoting direct elections in lawyers' associations

17 China does not have an autonomous legal profession; lawyers' associations at all levels are puppets of the justice bureaus, lacking democratic elections and transparency in their policy-making. In 2004, Liu Zilong and other lawyers pushed for a recall of the president and secretary general of the Shenzhen Lawyers' Association,[54] an incident that was echoed by Beijing's legal professionals a few years later. On 26 August 2008, Cheng Hai, Tang Jitian, and more than 30 other Beijing lawyers posted on the Internet "An Appeal to All Beijing Lawyers, the Municipal Justice Bureau, and Municipal Lawyers' Association: Conform with the Tide of History and Achieve Direct Elections to Lawyers' Association," which called for direct elections to the Lawyers' Association, and also solicited the views of fellow professionals regarding their draft "Electoral Procedures for the Beijing Lawyers' Association." These lawyers used methods such as text messaging, email, regular meetings, and personal visits to legal offices to appeal for the support of other lawyers and to canvass for votes in the election. The Beijing Lawyers' Association then issued a "Stern Statement" warning, "Anyone who, on the pretext of promoting democratic elections, uses text messaging, the Internet, and other such media to covertly establish contact, publish seditious comments, stir up rumours, and engage in rabble-rousing among Beijing's lawyers in an attempt to win support among the ill-informed for so-called 'direct elections to the Beijing Lawyers' Association,' is violating the law."[55] This statement provoked a negative response in the legal profession. Although the effort to promote democracy in the Lawyers' Association was not successful, it had enormous influence and considerable historical significance.[56] There are indications that the suspension of licenses and non-renewal of registration of some lawyers (such as Yang Huiwen, Wen Haibo, Chang Lihui, Tang Jitian, Tong Chaoping, and Jiang Tianyong) over the following two years was retaliation by the Justice Bureau and the Beijing Lawyers' Association.

Demonstrators gathering for a weiguan protest action on the day of the trial of internet activist You Jingyou for defamation in the context of the "Three Netizens of Fujian" case, Fuzhou (Fujian Province), 16 April 2010 (the other two "Fujian netizens" were Wu Huaying and Fan Yanqiong)



The banner displayed here –quoting Premier Wen Jiabao– reads "Fairness and justice outshine the sun." Wang Lihong, the woman on the left, was later convicted of "creating a disturbance" for her participation in this action

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Activating the Constitution

18 In May 2003, He Weifang, Xiao Han, and three other scholars sent a letter to the Standing Committee of the National People's Congress requesting a special investigation into implementation of the Custody & Repatriation system since the death of Sun Zhigang. This was an attempt to activate the long-dormant Article 71 (1) of the PRC Constitution, which states: "The National People's Congress and its Standing Committee may, when they deem it necessary, appoint committees of inquiry into specific questions and adopt relevant resolutions in the light of their reports." Requesting that the government disclose certain information in accordance with the "Regulation on the Disclosure of Government Information" is another typical example of attempting to activate existing laws in order to promote systemic change. In 2009, Beijing lawyer Yang Huiwen filed a request for information with all 73 departments under the Beijing municipal government, requiring disclosure of "the specifics of official vehicle use, reception of guests with public funds, and the financial administration of public funds leaving China; the circumstances of execution of the annual budget, departmental budget data, and policy-making processes," etc., but received only two complete replies.[57]

Strolling and "surrounding gaze"

19 The 2007 Xiamen PX incident[58] took on symbolic significance by endowing the term "strolling" with a completely new connotation. A series of subsequent public incidents (the Three Fujianese Netizens, the Yihuang demolition and removal,[59] the Zhao Lianhai case,[60] the Panyu refuse incinerator,[61] etc.) likewise brought the phrase *weiguan* –

"surrounding gaze" – to the fore. In the writings of Lu Xun, *weiguan* has a bleak and negative connotation. "However, the citizens' *weiguan* spurred by microblogs has clearly redefined the term, making it a synonym for active participation.

20 The arrival of the microblog marks an epoch during which *weiguan* has been elevated to a new historic height."[62]

21 The Open Constitution Initiative (*Gongmeng*) and Dr. Xu Zhiyong have long been concerned with the rights of petitioners, and repeatedly organised *weiguan* events at so-called "black prisons,"[63] on a number of occasions bringing about the rescue of some petitioners. This kind of "surrounding gaze" uses the Internet to organise citizen volunteers and devise tactical strategies, while coordinating online and offline activities through microblogs and Twitter.[64] On 16 June 2010, the day of the Dragon Boat Festival, netizens organised a "summer evening party" in support of rights defender Ni Yulan. When the police detained Ni Yulan, netizens set up tents at the entrance to the detention centre in protest, and when the police drove them off, they took to the streets.

22 The case of the Three Fujianese Netizens[65] added another thick dossier to the history of *weiguan*. When the trial opened at the Mawei District People's Court on 16 April 2010, hundreds of netizens from all over China sent out messages of support at a pre-arranged time and reported on the situation through Twitter. Although many participated in the *weiguan* event, they created a moving spectacle of peace, restraint, and order, and left behind a series of essays, videos, and analyses that captured the attention of observers. Commentators noted, "The Fujian *weiguan* incident did not arise spontaneously out of thin air, but in fact was the inevitable result of the development of China's civil society over the course of several years."[66] "This mass *weiguan* was the culmination of years of struggle, and it will continue; it is completely different from the Xiamen PX incident and has greater value and significance."[67] One important difference is that the focus of this "surrounding gaze" was the freedom of expression guaranteed in the Constitution, rather than personal interests or an environmental issue.

NGOs

23 Many rights defence activities require a great deal of day-to-day, trivial work; they require the coordinated action and substantial human and financial resources that only a non-governmental organisation (NGO) can provide. For example, there is the Aizhixing Institute, which focuses on AIDS and public health; the Shenzhen Equity & Justice Initiative, which focuses on involuntary psychiatric treatment; the Beijing Yirenping Centre, which focuses on equal rights; the Transition Institute (*Zhuanzhixing*), which focuses on professional monopolies, tax reform, and research on social transformation; the Open Constitution Initiative (*Gongmeng* 公盟), which focuses on human rights and rule of law; and the Beijing-based China Against Death Penalty, which focuses on the death penalty. NGOs focusing on rights defence activities, whether relating to environmental protection, workers' rights, or the rights of people living with HIV-AIDS, have difficulty registering with the Ministry of Civil Affairs, and can only register with ministries in charge of industry or commerce. Some are not able to register at all, and can only exist as operational networks: for example Civil Rights and Livelihood Watch (*Minsheng guangcha gongzuoshi* 民生观察工作室) and China Against Death Penalty. Some were registered as companies but then had their

registration cancelled, such as the Open Constitution Initiative. *Gongmeng's* participation in the rights defence movement was quite wideranging, focusing on petitioners' rights, public interest litigation, civic participation and grassroots elections, lawyers' rights, freedom of expression, tainted milk powder and other public health incidents, promoting reform to the household registration (*hukou*) system, and demanding equal access to education, among other issues.

A demonstrator holds up a banner reading "Light, Truth, Justice," "Justice is a human longing," and (in smaller script), "Pay attention to the Case of the Three Fujian Netizens. 16 April [2010]"



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Independent candidates in people's congress elections

24 According to The Electoral Law of the PRC, direct elections to the various levels of people's congresses occur nominally up to the county level. Even county-level people's congress elections are manipulated and are sham democracy. However, some individuals such as Yao Lifa and Xu Zhiyong have managed to exert influence as independent candidates in county people's congress elections.[68] Microblogs were very influential during the 2011 people's congress elections, with many rights defenders, lawyers, writers, and teachers using microblogs to announce their candidacy, and carrying out campaigns and publicity through microblogs, blogs, public speeches, leafleting, visits and other methods. Because the government exerted pressure through various types of covert manipulation and overt unlawful acts, only a tiny minority of independent candidates were ultimately elected, but their campaigning activities still had historical significance by displaying the power of ordinary citizens.[69]

Recall movements

25 In April 2003, nearly 10,000 villagers from several towns under the jurisdiction of Fujian's Fu'an City signed a joint petition demanding the recall of Fu'an's mayor. This

was the first recall petition for a mayor since 1949, and it was soon followed by similar petitions in Fujian's Minhou County and Fuzhou City, and Hebei's Tangshan City and Qinhuangdao City, where representatives of tens of thousands of farmers who had lost their land launched campaigns demanding that local Party and government administrators be removed from office and deprived of their qualifications as people's congress delegates.[70] The Taishi Village incident in 2005 was even more influential.[71] Right defenders with special legal expertise played critical roles in several recall campaigns, among them Li Boguang (aka Li Baiguang), Guo Feixiong, Tang Jingling, Lü Banglie, Zhao Yan, and Yu Meisun.

Compiling handbooks

26 Rights defence movements require constant summarisation of experience, the provision of campaign guidebooks, and the promotion of theory to guide practice. Some rights defenders and organisations have written and compiled practical handbooks: for example Yao Lifa's *Essential Knowledge for China's Independent Candidates in the 2011-2012 Elections*, the *Civil Rights Handbook* edited by Zhang Hui, the Transition Institute's *Citizen's Guide to Taxation*, Xu Zhiyong's *Civil Rights Defence Handbook*, the *Citizen's Guide to Participating in People's Congress Elections* by Wei Huanhuan and Yao Lifa, the *Handbook Against Torture* by Li Heping and other lawyers, and a series of handbooks by Aizhixing aimed at people with AIDS, homosexuals, and other groups.

Non-violent non-cooperation and civil disobedience

27 A typical example of "non-violent non-cooperation" was the "take back the vote campaign" launched by Tang Jingling and others in 2006.The campaign called for citizens to use various means of expressing their refusal to participate or vote in elections as a boycott of manipulated and sham elections. This seems antithetical to independent participation in elections, but its social significance achieves the same end through different means.[72] Other examples of non-cooperation campaigns include joint statements rejecting CCTV and other official media,[73] publicly refusing to subscribe to official newspapers, refusing to provide service,[74] uninstalling software that helps the government monitor and control information, refusing to use Yahoo! email following the arrest of Shi Tao,[75] and refusing to join or announcing withdrawal from Party organisations, writer's associations, and other official organs.

28 Civil disobedience is when citizens follow their conscience by using non-violent methods to openly defy laws, willingly bearing the consequences to appeal to the public's sense of justice. Theorists are divided over whether or not civil disobedience is appropriate to non-democratic regimes. Although it is hard to identify influential classic examples of civil disobedience in China,[76] cases of a similar nature can be cited. One example is Christian house churches refusing to register with the government and carrying out worship activities in public.[77] Another example is Yang Zhizhu's open violation of China's family planning policies with an out-of-plan baby.[78] There is also Beijing residents' intentional violation of bans on setting off fire-crackers during the Spring Festival, or lawyer Li Subin's defiance of a ban on driving cars with less-than-1.0-liter engine displacement along Chang'an Avenue.[79]

29 There are many other types of rights defence, for instance sit-ins, relay hunger strikes, labour strikes, carrying placards on streets, citizen investigation teams, lobbying for legislation and policies, satirical skits, street performance art, creation and performance of songs, Internet boycotts,[80] applications for demonstration permits, cartoons, graffiti, popular opinion awards, debates, documentary films,[81] large-scale dinner parties,[82] etc. Some more extreme methods include self-immolation, hunger strikes, self-mutilation, self-confinement, and self-abasement, but because these are controversial and present particular difficulties, they have not been widely used.

Online rights defence campaigns

30 As soon as the Internet entered China, ordinary citizens began using it to fight for their rights. Huang Qi, who was imprisoned in 2000 after establishing the Tianwang website in 1999, launched numerous human rights efforts through the Internet. From creating websites, discussion forums, bulletin boards, and blogs to the use of Twitter and microblogs, rights defenders have remained at the forefront of learning and using the latest networking technology, putting China on the road to technological empowerment.

31 The interactivity, openness, grassroots appeal, and immediacy of Web 2.0 technology have created new modes for social movements. Online social movements can be multi-hubbed, random, boundary-straddling, and virtual. Any given networking module, website, or web page can become the hub of a campaign. A casually transmitted item of information can launch a collective netizen movement. The initiator of a campaign can conceal his or her true identity. At the same time, however, online social movements can also be planned, normative (through fixed network positions), and localised, and a great deal of information can be released through identifiable entities.[83] The abundance and diversity of online rights defence activities have propelled both the breadth and depth of development of China's rights defence movement.

Online petitions

32 It used to be that the cost of organising open letters was very high, while the channels for issuing them were narrow and the range of recipients very limited. The Internet age has made the organisation of open letters much more convenient, while also reducing the cost. Blogs, email, listservs, Skype, qq, MSN, Twitter, and microblogs can all be used to organise and issue open letters, and websites have been established specifically for signature campaigns. Many open letters were issued during rescue efforts for Du Daobin, with more than 1,600 signatures gathered in a short amount of time. It was during the signature campaigns surrounding this incident that "there emerged an unusual convergence of intellectuals from both within and outside the system."[84] In the Gan Jinhua case,[85] 300 signatures were gathered, including those of many lawyers and legal scholars. In the Wu Changlong injustice case,[86] the first round of campaigning garnered 1,252 signatures. Following the Li Wangyang incident, round after round of signature campaigns proliferated, along with the creation of websites specifically for collecting signatures and related articles and publicising the progress of the campaign.

[87] It can be anticipated that an increasing number of online signature campaigns will arise in response to specific cases or incidents.

Online rescue

33 On 16 July 2009, Twitter account holder Guo Baofeng (amoiist) was detained by the Mawei police after disseminating information on a case of injustice through the Internet. While police officers were asleep, he issued a rescue appeal through Twitter. This incited the indignation and sympathy of his Twitter followers, who the next morning voiced their protest through a relay tweet: "Guo Baofeng, your mother is calling you home for dinner!"

34 A posting with similar wording had just become a hot topic on Baidu's World of Warcraft (*Moshou*) discussion forum, and now became miraculously associated with Guo Baofeng's personal circumstances. After that, news about Guo was promptly published through Twitter, and followers immediately launched offline rescue activities such as postcard mailing campaigns. On 31 July, Guo Baofeng was released.[88] The Chen Guangcheng, Ai Weiwei, and *Gongmeng*-Xu Zhiyong cases also engendered impressive Internet rescue campaigns involving massive quantities of articles, photos, postings, cartoons, and videos on Twitter, microblogs, and Facebook.

"Emblem campaigns"

35 When Liu Xiaobo was on trial, many netizens launched "yellow ribbon campaigns" by adding a yellow ribbon symbolising "thoughts and prayers for your safe return" on their Twitter and microblog banners. Many members of the public who gathered outside the court to demonstrate their support for Liu also wore yellow ribbons or tied them to the railings outside the court. In other cases, large numbers of netizens have placed images of the person they're concerned about on their microblog, QQ, or Twitter banner – for example, photos of Chen Guangcheng, "Pearl" He Peirong, or Li Wangyang. In the course of its long involvement in rights defence campaigns, *Gongmeng* appealed on its website for unified use of "citizen" symbols. In addition, symbols such as the "Grass Mud Horse" or "River Crab," and texts created by netizens, have been used for the purposes of protest, satire, or deconstruction.[89] I refer to this phenomenon as "emblem campaigns." These symbols are very eye-catching, and through shared symbol tagging, netizens can recognise the like-minded among them, promoting a psychological identity among participants in social movements and building up a formidable momentum for protest. It likewise facilitates offline contact and campaign coordination.

Human rights (weiquan) lawyers and rights defenders gather outside the Court of Linyi City (Shandong Province) on 20 July 2006 to show solidarity with blind rights advocate Chen Guangcheng, accused of 'damaging public property' and 'causing a traffic disturbance,' and his defence lawyers (the authorities on that day postponed the trial)



Cheng's supporters are each wearing a shirt with his picture and the words 'Blind – Chen Guangcheng – Freedom'

© Teng Biao

Online publications

36 The Chinese government strictly prohibits privately-published newspapers. In terms of the Internet, however, there is no longer any genuine technical barrier to private publication. A typical example is *Yibao* ("One Man's Paper," www.1bao.org), published by Zhai Minglei. In addition, the Internet has many "personal newspaper services" such as Paper.li, which aggregate and filter news from social networks such as Twitter and Facebook, and then turn the content into an online daily.

Flash mobs

37 The flash mob is a phenomenon in which a group of people gathers at a time and place arranged in advance through the Internet or text messaging, then carries out a designated action (such as applauding or shouting slogans) before disappearing in an instant. An unsuccessful "Free Chen Guangcheng Beijing flash mob" was organised in April 2010. A more recent action occurred at 9:00 p.m. on 10 May 2012, when a huge number of postings supporting You Minglei simultaneously appeared on all of the major microblogs.[90]

Human flesh search engines and name lists

38 Although human flesh search engines have been confronted by a number of legal and ethical controversies, carrying out searches to identify perpetrators continues to draw the support of netizens on certain hot-button issues. Some more recent examples include the forced abortion case in Ankang, Shaanxi Province,[91] and a protest regarding

a molybdenum-copper project in Shifang County, Sichuan Province.[92] Netizens tracked down a head nurse involved in the first case, and a "fat policeman" who had been responsible for beatings in the second case.

39 Ai Weiwei carried out a citizen's investigation to identify child victims of the 2008 Sichuan earthquake. He was able to identify 5,212 young victims, and listed their names on the Internet, as well as memorialising them on their birthdays. In 2010, he similarly launched an investigation to identify the victims of a massive fire in Shanghai's Jing'an District. After a major fire in Tianjin's Ji County in June 2012, someone used Google Docs in an attempt to challenge the officially published name list. Some rights defenders have also used Internet technology to compile name lists of political prisoners.[93] Special websites and Twitter accounts have been set up to collect name lists of evildoers, and to collect information on secret police, procurators, and judges involved in persecuting prisoners of conscience.

40 Apart from the afore-mentioned forms, there are also online ballots, video conferencing, online seminars, Internet publications, etc.; it could be said that not a day passes without a new method of online social movements being created. What should be noted is that these various online and offline rights defence campaigns are seldom used in isolation, but are more typically used in combination. The Qiu Qingfeng incident in 2000 is believed to be "China's first protest using a combination of online and offline methods."[94] The 2003 Li Siyi incident resulted in a flood of essays, songs, and reports; a memorial website was established through which people could offer flowers and songs, light candles and incense, and perform libations, and Ren Bumei, Wen Kejian, and Qin Geng took part in a relay hunger strike.[95] Another example of a successful rights defence case is Feng Zhenghu's struggle in 2009 for his right to return to his country. Feng received online and offline support through in-kind donations, text messages, and direct twitter messages.[96] The melamine milk powder contamination incident drew inter alia open letters, the organisation of meetings of the parents of victims, paid advertisements in *Southern Weekend*, the organisation of a legal team and legal aid for lawsuits, media and Internet mobilisation, the filing of lawsuits in Hong Kong, negotiations with the factory owners, banners in the streets, and academic symposia.[97] The campaign to rescue Chen Guangcheng adopted an even richer array of activities: protests outside court, letter-writing campaigns, sending milk powder and school supplies to Chen's children, visits, setting off fireworks and releasing balloons, altering Twitter or microblog banners, wearing "Guangcheng shirts," Guangcheng bumper stickers, the production of videos and documentaries, people's awards, telephoning local government officials to protest and posting the audio recording on the Internet, street performance art, taking pictures of dark glasses and posting the photos on the Internet, setting up special websites, circulating open letters, disseminating leaflets, posting online advertisements for marriage partners,[98] and other examples too numerous to list here.

41 Rights defence campaigns constantly intersect and coordinate online and offline. This is sometimes referred to as the "three-dimensional rights defence model [...] flexibly integrating seven key elements: domestic media reports, on-site guidance, investigation and analysis, court litigation support, consolidation of public opinion through the Internet, proposals for systemic reform, and monitoring by the international community (through international media and international

relations). [...] It combines systematic reform campaigns with unsystematic social movements.”[99]

Conclusion

42 An authority on social movements, Charles Tilly, believes that social movements have three key elements: 1) campaigns: “A sustained, organised public effort making collective claims on target authorities”; 2) social movement repertoire defined as the “Employment of combinations from among the following forms of political action: Creation of special-purpose associations and coalitions, public meetings, solemn processions, vigils, rallies, demonstrations, petition drives, statements to and in public media, and pamphleteering”; 3) so-called “WUNC displays”: an acronym for "participants’ concerted public representation of [...] worthiness, unity, numbers, and commitments on the part of themselves and/or their constituencies".[100] Viewed from this angle, China’s rights defence movement qualifies as a social movement in progress. Some researchers describe and analyse the rights defence movement under the framework of social movements. For example, Li Fan believes that modern China’s “freedom and civil rights movement” has the following characteristics: demanding clear objectives of social liberty and the safeguarding of rights and interests; sustained posting of these demands in one locality after another throughout China; organisation and interaction between different groups is limited but emerging; and the methods for expressing demands is diverse and constantly growing.[101] This movement has not reached the stage of “possessing a unified comprehensive organisational hub, but is scattered and spontaneous, able to arise and die out at a moment’s notice, but also able to be revived at a moment’s notice. Overall, it embodies a state of continuous development.”[102]

43 China’s rights defence movement has its own unique aspects: 1) A low level of organisation. The rights defence movement has multiple hubs and a low level of organisation. NGOs are not the mainstream, and the movement is subject to enormous constraints. There exist some informal organisations, for example regular or irregular gatherings of civil society activists, and legal teams that cooperate when the opportunity arises, form around cases, and then dissolve after a case is finished. This is mainly for the purpose of reducing risk in an atmosphere of intense political pressure. 2) Multilevel appeals. There is the safeguarding of lawful rights and interests in individual cases, the promotion of changes to a law or policy, the defence of freedom of expression or worship and other such constitutional rights, and the kind of demand for systemic political reform seen in Charter ‘08. Opinions still diverge within the rights defence movement regarding appeals for political reform and over whether the rights defence movement needs to become politicised. 3) Multilevel actions. Some rights defence actions are very modest: a microblog exposing an environmental pollution problem, a small-scale petition, a research report or a symposium. Some are extremely radical, such as self-immolation or hunger strikes. Opinions continue to diverge over whether it is right to stage a hunger strike, “take to the streets,” or publicly defend Falun Gong.

44 As to the “full use” of legal space, it can in fact serve the purpose of safe-guarding justice in individual cases or improving particular provisions of bad law, but is it possible through this method to turn China into a constitutional state? Will demanding

that the government observe its laws be enough to achieve civil liberty and then move toward democratisation? The avoidance of organisation can in fact reduce (though not eliminate) risk, but without organisation, can the rights defence movement become a high-quality, effective social movement? Might a rights defence movement shackled by "legalisation of political issues and specialisation of legal issues" end up binding itself hand and foot? Can rights defence pick and choose, refusing to take on the most sensitive cases and topics?

45 These controversies began as early as 2005, when lawyer Gao Zhisheng wrote his open letter on the persecution of Falun Gong practitioners,[103] and they remain current today. In a 2006 essay, Gao argued that the rights defence movement should "become non-violent, politicised, and organised, and should take to the streets." Microblog discussions over the need for a more organised rights defence movement following Sichuan's Shifang incident and Fujian's Qidong Incident show that the debate continues.[104] The omnidirectional influence new networking technologies have had on the rights defence movement may eventually result in new conclusions.

46 The core of the movement is human activity. The enhancement of transportation and communication has clearly extended the scope of activities and the capacity for association, which in turn has had a marked effect on social mobilisation and collective action. One example is that petitioning becoming a social issue in the 1990s due in part to improved rail speeds and the construction of many expressways.[105] According to Marshall McLuhan, the media are "extensions of man."[106] The influence of the Internet on the media can be seen in these new phrases: we media; public media; republic media, social media, participatory media, collaborative media, common-shared media, etc.[107] The new media have in fact transformed the traditional meaning of space and time. Manuel Castells points out that the world has shifted from a "space of places" to a "space of flows," and that the space of flows in information society is allocative; a person's social function is basically organised within this space of flows.[108] According to Paul Virilio, what we call the world no longer refers to geographic expanse, but rather to "a temporal distance constantly being decreased by our transportation, transmission, and tele-action capacities."[109]

47 In the Information Age, a person can become an operative (such as a participant in a social movement) even when physically absent; complete in advance an action that will be required at some future time;[110] exert power through anonymous means; and influence actual social incidents from a virtual space. The cost and risk of participating in movements has been greatly reduced, and an accumulation of "micro-dynamics" can wield outstanding power. "Speaking only of the individual netizen, his every strike on the keyboard, every reply, comment, or forwarding of a posting seems so small that its effects can be overlooked. When he does this, he may not know where his comrades and companions are. But when these apparently impotent and isolated actions come together, a lone clap becomes an ovation, a small crowd expands to a mass, and strangers are assembled into a resonant action group."[111] This is also the reason why civil action has become increasingly dynamic, even though the government has been unceasing in its suppression of the rights defence movement.

48 The quandary of "systematisation" seems to have become a bottleneck in the rights defence movement. Even so, BBS, Twitter, Skype, email, mail list, QQ, QQ groups, microblogs, blogs, microblog groups, etc., as well as the increasing popularisation of cellular phones, have allowed for the synchronised dissemination of information,

immediate group contact, and multiparty online interaction, and thus have greatly changed the face of interpersonal exchanges and alliances. New Internet technology also has the capacity to assemble information into types, as well as assembling people with the same convictions, greatly facilitating the mobilisation of public opinion and social mobilisation, and leading to the emergence of new types of associative formations, such as virtual associations and online communities, which to a certain extent can break through prohibitions on "banned associations." "Virtual associations," "online communities," "informal organisations," "covert organisations," "temporary organisations" – whatever name they go by, these "quasi-organisations" have already become a social reality. Constant exchanges between individuals with shared concerns and viewpoints in virtual space have also made offline face-to-face exchanges and gatherings a matter of course. It is through this practice that citizens' self-organisational capacities can gradually take shape and improve. This is what Clay Shirky refers to as "organizing without organizations,"[112] and Sidney Tarrow believes, "It was not so much these formal organizations, but the informal social networks that lay at their heart and the informal connective structures among them that were potential centers of collective action... Less easily infiltrated by the police than formal associations and less subject to factionalization, informal networks had advantages during a time when governments were becoming increasingly wary of combination."[113] Before and even since the rise of the rights defence movement's, people have not abandoned efforts toward organised protest, as illustrated by the creation of political parties such as the Chinese Liberal Democratic Party, the Chinese Workers' Rights Protection Alliance, and the China Democracy Party, and groups such as the Tiananmen Mothers, the Pan-Blue Alliance, the Chinese Independent PEN Centre, the Guizhou human rights seminars, various house-churches, and the Open Constitution Initiative. Nevertheless, mobilisation and organisation in the Internet Age allow for collective action and social movements without organisational structure, charters, or fixed membership, without leaders and without advance planning. The traditional concept of organisation is increasingly subverted by Internet technology and actual practice.

49 To a certain extent, therefore, the Internet has broken down a number of traditional dichotomies: information disseminators vs information recipients; official media vs popular media; domestic media vs foreign media; domestic vs foreign; on-site vs off-site; organised vs individual; elite vs grassroots; public domain vs private domain; traditional activity vs virtual activity; and even political vs apolitical; online vs offline; and the powerful vs the powerless. Havel said that that living in truth is the "power of the powerless";[114] networking technology is likewise the power of the powerless. The Internet has become "liberation technology"[115] due to Web 2.0 social movements' gradual subversion of existing associative power structures.[116]

50 Under a political structure with freedom of expression and association, civil society "first located breaches through the Internet, and once the Internet set down roots, brought about spontaneous alliances in the virtual world. Civic collective movements then progressively infiltrated, influenced, pushed forward, and altered reality. Civic collective movements in China were once unimaginable, but with the help of the Internet and public opinion forums driven by the Internet, they have become a reality, and are creating one miracle after another in China's public life."[117] China's rights defence movement has achieved much in the space of just ten years. Landmarks include: the Sun Zhigang incident, the Taishi Village incident, the Chen Guangcheng incident, the Xiamen PX incident, Charter '08, Ai Weiwei's Sichuan earthquake

investigation, the Guizhou human rights seminars, Huang Qi's 6.4 Tianwang website and Liu Feiyue's Livelihood Watch, the Deng Yujiao case, the Qian Yunhui incident,[118] the Li Zhuang case, the incident of the Three Fujian Netizens, the Wukan incident, the participation of independent candidates in the 2011 people's congress elections, Guiyang's Li Qinghong case, *Gongmeng*'s push for the equal right to education, and the "New Citizens' Movement."

51 The main developer of Twitter, Jack Dorsey, once said: "One could change the world with one hundred and forty characters." In terms of China's political transformation, the situation is of course much more difficult and complex; it will take more than mouse clicks, and will require the much greater energy of offline collective action. In recent years, many public intellectuals and activists have given the optimistic prognosis that "the surrounding gaze is changing China." The Internet has already brought enormous transformation to the concepts and modes of dissemination of information, personal interaction, social mobilisation, and political movements. Against this background, the various online and offline activities of participants in China's rights defence movement are changing China.

NOTES

1. In 2003, while the Chinese authorities were claiming to have brought the SARS crisis under control, Jiang Yanyong, a retired doctor at Beijing's 301 Military Hospital, sent a letter to the news media stating that China's Public Health Ministry was covering up the true situation, and that the figures published in the official media were a gross understatement.

2. Rural industrialist Sun Dawu won acclaim for a speech he delivered at Peking University about the nation's rural areas, agriculture, and farmers. On 27 May 2003, he was arrested and held for more than five months on suspicion of "illegally absorbing public funds." The case engendered a strong reaction in the Chinese and international media, and in China's intellectual community.

3. On 4 June 2004, a drug addict named Li Guifang was arrested for theft and sent to a drug rehabilitation centre. She repeatedly pleaded with the police to notify family members to look after her three-year-old daughter, Li Siyi, who had been left home alone. The police ignored her pleas, and the child was discovered dead of starvation on 21 June.

4. A student at Beijing Normal University, Liu Di, who used the online name "Stainless Steel Rat," was taken away by Beijing State Security police on 7 November 2002, drawing waves of protest from the intellectual community.

5. Writer Du Daobin, employed in a medical insurance management office in Yingcheng City, Hubei Province, was arrested in October 2003 after publishing a series of essays and taking part in appeals on the Internet.

6. Wang Yi, "Minquan yundong: Juli women zi you yi gongfen" (The civil rights movement: Just a centimetre away), *Xinwen zhoukan*, 24 November 2003; Di Feng, "Xin minquan yundong nian" (The year of the new civil rights movement), and Wang Yi, "2003 gongmin quanli nian" (Civil rights year 2003), in *Xinwen zhoukan*, 22 December 2003.

7. "Zhongguo weiquan lüshi fazhi xianfeng" (China's rights defence lawyers, the vanguard of rule of law), *Yazhou Zhoukan* (Hong Kong), 25 December, 2005.

8. He Qinglian, "Zhengqu siquanli de weiquan huodong yu yaoqiu quanli de minzhuhua yundong" (The rights defence movement, fighting for personal rights and interests, and the democratisation movement, demanding power), http://archives.cnd.org/HXWK/author/HE-Qinglian/kd060604-5.gb.html (consulted on 20 August 2012).
9. Hu Ping, "Weiquan yu minyun" (Rights defence and the democracy movement), *HRIC Biweekly*, no. 12, 5 November 2009.
10. Editor's note: For a discussion of "rule of law," "rule by law," and related terminology, see e.g. Albert Chen, "Towards a Legal Enlightenment: Discussions in Contemporary China on the Rule of Law," *UCLA Pacific Basin Law Journal*, vol. 17, 2000, p. 125.
11. Keith J. Hand, "Using Law for a Righteous Purpose: The Sun Zhigang Incident and Evolving Forms of Citizen Action in the People's Republic of China," *Columbia Journal of Transnational Law*, vol. 45, no. 1, 2006. See also Teng Biao, "Sun Zhigang shijian: Zhishi, meijie yu quanli" (The Sun Zhigang incident: Knowledge, media, and power), http://blog.boxun.com/hero/tengb/19_1.shtml, and Liu Xiaobo, "Minjian weiquan yundong de shengli" (The triumph of the popular rights defence movement), BBC, 6 July 2003, http://blog.boxun.com/hero/liuxb/91_1.shtml (links consulted on 20 August 2012).
12. Regarding official strategies for controlling the media, see He Qinglian, *Wusuo Zhongguo: Zhongguo dalu kongzhi meiti celüe da jiemi* (Locked-in China: Exposing mainland China's strategies for controlling the media), Taiwan, Liming chuban gongsi, 2006. Published in English as *The Fog of Censorship: Media Control in China*, Human Rights in China, 2008, www.hrichina.org/content/4050 (consulted on 20 August 2012).
13. For the role of the media in the Sun Zhigang incident, see Philip P. Pan, *Out of Mao's Shadow: The Struggle for the Soul of a New China,* New York, Simon & Schuster, 2008, chapter 9.
14. John D. McCarthy and Mayer N. Zald, "Resource Mobilization and Social Movements: A Partial Theory," *American Journal of Sociology*, vol. 82, no. 6, May 1977, pp. 1212-1241.
15. Xu Youyu, "Ziyouzhuyi yu dangdai Zhongguo" (Liberalism and modern China), in Li Shitao (ed.), *Zhishifenzi lichang: Ziyouzhuyi zhi zheng yu Zhongguo sixiangjie de fenhua* (The intellectual standpoint: The fight for liberalism and splits in China's intellectual circles), Shidai wenyi chubanshe, January 2000, pp. 412-430.
16. Teng Biao, "Zhongguo weiquan yundong wang hechu qu" (What next for China's rights defence movement?), *Ren Yu Renquan*, October 2006.
17. Progressive relative deprivation: the "substantial and simultaneous increase in expectations and decrease in capabilities." See James Chowning Davies, "Toward a Theory of Revolution," *American Sociological Review*, vol. 27, 1962, pp. 5-19.
18. Website of the Tiananmen Mothers, a group of family members of victims of the official crack-down on the 1989 Democracy Movement, http://www.tiananmenmother.org/index_files/Page379.htm (consulted on 20 August 2012).
19. For more on the open letters movement, see Teng Biao, "Cong shangshu dao gongkaixin" (From petitioning to open letters), *Beijing Spring*, October 2005.
20. Teng Biao, "Gongmin weiquan yu shehui zhuanxing" (Popular rights defence and social transformation), *HRIC Biweekly*, 4 July, 2010.
21. Regarding the co-evolution of the Internet and civil society, see Guobin Yang, "The co-evolution of the Internet and civil society in China," *Asian Survey*, vol. 43, no. 3, May-June 2003, pp. 405-422.
22. HuYong, *Zhongsheng xuanhua:Wangluo shidai de geren biaoda yu gonggong taolun* (Mass uproar: Personal expression and public discussion in the Internet age), Guangxi shifan daxue chubanshe, 2008, pp. 307-308.
23. See the China Internet Network Information Center (CNNIC)'s annual "Statistical Reports on the Internet Development in China," www1.cnnic.cn/en/index/0O/index.htm (consulted on 20 August 2012).

24. See the Wikipedia entries on Web 2.0, https://en.wikipedia.org/wiki/Web_2.0 and http://zh.wikipedia.org/wiki/Web_2.0 (links consulted on 20 August 2012).
25. Yan Deli, "Woguo weibo de fazhan licheng he fazhan qushi fenxi" (An analysis of the development process and development trends of China's microblogs), http://news.iresearch.cn/0468/20101130/128679.shtml (consulted on 20 August 2012).
26. See the Wikipedia entry on Twitter, http://zh.wikipedia.org/wiki/Twitter; see also Chang Ping, "Twitter zai Zhongguo" (Twitter in China), *Financial Times* online Chinese edition, 11 January 2010, http://www.ftchinese.com/story/001030710?archive (links consulted on 20 August 2012).
27. "Wangyi weibo zhuce yonghu shupo yi cheng disan da weibo" (T.163 microblog registered users break 100 million to become the third largest microblog), http://tech.163.com/12/0517/10/81MTH5K5000915BF.html (consulted on 20 August 2012).
28. "Xinlang weibo yonghushu chao 3 yi banshu yonghu yidong zhongduan denglu" (Sina weibo accounts exceed 300 million, half of account holders shift terminal registration), *Xinjingbao*, 16 May 2012, http://tech.ifeng.com/internet/detail_2012_05/16/14546599_0.shtml (consulted on 20 August 2012).
29. "2012 nian 2 yue Zhongguo 3G yonghu guimo yi da 1.4 yi" (In February 2012, China 3G account-holders reach 140 million), http://tech.ifeng.com/internet/date/detail_2012_04/11/13804950_0.shtml (consulted on 20 August 2012).
30. CNNIC, "Di 30 ci Zhongguo hulian wangluo fazhan zhuangkuang tongji baogao" (30th statistical report on the development of China's Internet), July 2012.
31. Yan Deli, *op. cit.*
32. For a report on the "stability preservation apparatus" and a "China stability preservation organization chart," see "Weiwen tizhi" (The stability preservation apparatus), *Caijing online*, 7 June 2011, www.caijing.com.cn/2011-06-07/110738832_1.html (consulted on 20 August 2012).
33. For the relationship between the rights defence movement and the media, and the media strategies employed, see Teng Biao, "Gongmin weiquan yu shehui zhuangxing" (Popular rights defence and social transformation), HRIC Biweekly, 4 July 2010.
34. See Teng Biao, "Jingcheng tuwei: Shifa yu minyi" (Breaking out of encirclement), *Tongzhou gongjin* (In the same boat), no. 7, 2008. For a general discussion of the media and China's judiciary, see Benjamin L. Liebman, "Watchdog or demagogue? The media in the Chinese legal system," *Columbia Law Review*, vol. 105, no. 1, 2005, pp. 1-157.
35. Liu Xiaobo, "Tongguo gaibian shehui lai gaibian zhengquan" (Changing the government by changing society), in Liu Xiaobo, *Zhuixun ziyou* (The pursuit of freedom), *Laogai Research Foundation*, 2011, p. 340.
36. LiuYang, "Lianhe juji, yaxu shi gaibian Zhongguo lüshi mingyun youxiao shouduan" (United attack may be an effective strategy for changing the fate of China's lawyers), 17 March 2012, http://blog.sina.com.cn/s/blog_63aeaff70102e0ol.html (consulted on 20 August 2012).
37. On 10 May 2009, three government officials in Sanming Township, Hubei Province, attempted to sexually assault manicurist Deng Yujiao. Deng defended herself with her manicuring shears, wounding two of the officials, one of them fatally. After Deng was arrested, public support for her burgeoned on the Internet. In June 2009, the court delivered a verdict of no criminal penalty against Deng.
38. On 11 August 2006, a Haidian urban management official named Li Zhiqiang and his colleague confiscated the cart of peddler Cui Yingjie. During the ensuing scuffle, Cui stabbed Li to death. In April 2007, Cui was handed a suspended death sentence.
39. On 21 April 2006, Xu Ting and his friend Guo Anshan took advantage of a malfunctioning ATM to withdraw 175,000 *yuan* and 18,000 *yuan*, respectively. In December 2007, Xu was sentenced to life imprisonment. When this information became public, the pressure of public opinion led to a retrial, and in February 2008, Xu's sentence was lowered to five years in prison.

40. Redevelopment of Chongqing's Hexinglu District began in 2004, but householders Yang Wu and Wu Ping refused to be relocated. The developer began foundation excavation around their home, with the result that the house stood out like a nail on an island of earth. The incident drew all the more attention because it occurred during the annual sessions of the National People's Congress and Chinese People's Political Consultative Conference.

41. On 9 February 2010, Li Zhuang, a lawyer for one of the defendants in the Chongqing organised crime crackdown, was convicted by the Chongqing Intermediate Court of fabricating evidence and impairing testimony, and was sentenced to one year and six months in prison. Upon completing his prison term, Li was indicted once again for "crimes of omission" and was escorted to the procuratorate for examination. After strong protests from lawyers, scholars, and others, the procuratorate withdrew the charges after the trial commenced.

42. In January 2012, a private entrepreneur, Wu Ying, was sentenced to death for fraud by the Zhejiang Provincial High Court. After the case raised enormous public concern, the Supreme Court sent the case back for retrial, and on 21 May of the same year, Wu Ying was handed a suspended death sentence.

43. On 30 March 2012, a dozen Guangzhou-based democracy and rights defence activists held up placards in Guangzhou's pedestrian walkways demanding that the government push forward political reform. Five of them, Ou Ronggui, Xiao Yong, Huang Wenxun, Yang Chong, and Luo Shouheng, were subsequently placed in criminal detention for "unlawful assembly, demonstration, and protest." All five were released after support for them was raised on the Internet.

44. In 2005, Cai Zhuohua, an evangelist at a Beijing house church, was arrested for printing Bibles to distribute to Christians in impoverished regions. More than a year later, he was sentenced to three years in prison for "operating an illegal business," and his wife likewise received a two-year prison sentence.

45. Translator's note (hereafter TN): In April 2005, thousands of public security and other personnel clashed with tens of thousands of villagers in Huashui Township of Dongyang City, Zhejiang Province, over pollution caused by local chemical plants. See "Ceng bei fengsha de 'Dongyang Huashui shijian' zhenxiang ji guanfang baodao" (The truth and the official version of the blackedout "Dongyang Huashui incident"), Lubansheng Random Thoughts blog, www.9ask.cn/blog/user/lubangsheng/archives/2006/11448.html (consulted on 20 August 2012); and "Large Scale Riot Erupts in Huashui Town of Zhejiang Province," *The Epoch Times*, 15 April 2005.

46. TN: Members of the Three Grades of Servants church were put on trial in 2006, with three sentenced to death, three others sentenced to life in prison, and 11 others sentenced from three to 15 years in prison in connection with the murders of several members of the rival Oriental Lightning sect. See Reuters, "Three Grades of Servants: China sentences sect members to death for murders," 7 July 2006, posted on the Religion News Blog, www.religionnewsblog.com/15192/three-grades-of-servants-china-sentences-sect-members-to-death-for-murders (consulted on 20 August 2012); and China Aid Association, "Urgent Appeal regarding the Church Case of the 'Three Grades of Servants' by Preachers from the House Churches of China," 17 March 2006, www.chinaaid.org/2006/03/urgent-appeal-regarding-church-case-of.html (consulted on 20 August 2012).

47. In July 2005, residents of Taishi Village in Panyu, Guangdong Province, repeatedly demanded the recall of the village head over payments for reclaimed land and other issues. When several villagers and their legal advisors were detained, a large number of rights defence lawyers became concerned and offered legal advice in support. The incident attracted considerable media coverage both inside China and overseas.

48. Ye Zhucheng, "Lüshituan: Fazhi liliang de jueqi" (Legal teams: The rising power of rule of law), *Nanfeng Chuang* (Southern Exposure), 31 December 2011. TN: For an excellent English summary of the Li Qinghong case and its implications, see Yueran Zhang, "China's All-Star Legal

Team Pleads for Defendants' Rights On Social Media," Tea Leaf Nation, 25 July 2012, http://tealeafnation.com/2012/07/bilingual-brew-chinas-all-star-legal-team-pleads-for-defendants-rights-on-social-media (accessed 28 August 2012).

49. TN: "The Surrounding Gaze," Media Dictionary, *The China Media Project*, http://cmp.hku.hk/2011/01/04/9399 (consulted on 20 August 2012).

50. "Guangyu qidong weixian shencha chengxu, feichu laodong jiaoyang zhidu de gongmin jianyishu" (Citizens' proposals to launch an investigation into violations of the constitution and to abolish the Re-education Through Labour System), www.ccwlawyer.com/center.asp?idd=1293 (consulted on 20 August 2012). For examples of opposing the RTL system in specific cases, see Teng Biao, "Shei lai chengdan dizhi efa de zeren" (Who will take responsibility for boycotting evil laws?), *HRIC Biweekly*, no. 41, 16 December 2010; Si Weijiang, "Fang Hong su Chongqing shi laojiaowei yituo shibei laojiao an daili ci" (Legal counsel's statement in Fang Hong's lawsuit against the Chongqing Municipal RTL Committee), www.niwota.com/submsg/10342725 (consulted on 20 August 2012); and regarding the 2012 appeal following the conviction that year of Tang Hui (a petitioner seeking justice for her raped daughter who was sent to a labour camp) in Hunan: '*Shi lüshi jianyan sifabu gong'anbu tiaozheng laojiao zhidu* (Ten lawyers submit suggestions to the Ministries of Justice and Public Security to adjust the Re-education Through Labour system).

51. Li Heping, Teng Biao, *et al.*, "The Supremacy of the Constitution, and Freedom of Religion" (Stacy Mosher, trans.), in Stacy Mosher and Patrick Poon (ed.), *A Sword and a Shield: China's Human Rights Lawyers*, Hong Kong, China Human Rights Lawyers Concern Group, February 2011.

52. See "Yangsi daofa" (Yang's swordsmanship), *Southern Metropolitan Weekly* (Nandu Zhoukan), 11 June 2011, www.nbweekly.com/news/special/201106/26344.aspx (consulted on 20 August 2012).

53. Beifeng posted an online appeal for a "Campaign of all Chinese to halt evil laws," and provided a list of all NPC delegates, calling on netizens to telephone delegates or send them email and text messages stating "The amended Criminal Procedure Law is an evil law and must on no account be passed." Mai Yanting, "Minjian qishen fankang xingsufa, lizu 'beishizong' hefahua" (Public rises in opposition to Criminal Procedure Law, forcefully resists legalisation of "disappearing"), RFI, http://www.chinese.rfi.fr/node/108060 (consulted on 20 August 2012).

54. "Shenzhen lüxie huizhang bamian shijian zhixuan huizhang de '18 zongzui'" ("18 crimes" in direct elections in the recall incident for the president of the Shenzhen Lawyers' Association), *21 shiji jingji baodao*, 4 August 2004.

55. Zhou Hua, "Beijing lüshi xiehui zhixuan fengbo" (Controversy over direct elections to the Beijing Lawyers' Association), *Southern Exposure*, 14 October 2008.

56. For an assessment of this incident, see Jerome A. Cohen, "The Struggle for Autonomy of Beijing's Public Interest Lawyers," *China Rights Forum*, no. 1, 2009, www.hrichina.org/crf/article/3692 (consulted on 20 August 2012).

57. Huang Xiuli, "Yici youguan xinxi gongkai de 'xingwei yishu'" (A "performance art" incident regarding open information), *Southern Metropolitan Weekly*, 20 May 2009.

58. TN: Text messaging mobilized thousands of residents in a street protest opposing construction of a $1.5 billion a xylene (PX) plant in Xiamen, Fujian province. For an analysis of the incident, see Li Datong, "Xiamen: The triumph of public will?", *Open Democracy*, 16 January 2008, www.open-democracy.net/article/xiamen_the_triumph_of_public_will (consulted on 20 August 2012), and "The Xiamen PX Project," *EastSouthWestNorth*, 1 June 2007, http://zonaeuropa.com/20070601_1.htm (consulted on 20 August 2012).

59. On 10 September 2010, three people were critically injured in a self-immolation incident triggered by a forced demolition and relocation in Fenggang Township, Yihuang County, Jiangxi Province. One of those injured, Ye Zhongcheng, subsequently died of his injuries.

60. Zhao Lianhai set up a website, "Kidney Stone Babies," dedicated to victims of the 2008 melamine-tainted milk powder scandal, through which he carried out investigations, published news, and called for the parents of affected infants to join together in a rights defence lawsuit. In November 2010, Beijing's Daxing Court sentenced Zhao to two-and-a-half years in prison for the crime of "stirring up trouble."

61. In 2009, the Guangzhou municipal government decided to build a power plant fuelled by the incineration of domestic waste at a location in the Panyu District, with operation scheduled to commence in 2010. In October 2009, hundreds of landholders in the locality of Dashi launched a protest against the plant.

62. Xiao Shu, "Gongmin weiguan: Laizi putongren de jianjin geming" (Citizen's surrounding gaze: The product of gradual revolution among the ordinary people), *Shidai zhoukan*, no. 106, 25 November 2010. For an earlier article that brought out the surrounding gaze's significance to social movements, see Xiao Shu, "Guangzhu jiushi liliang: Weiguan gaibian Zhongguo" (Attention is power: The surrounding gaze changes China), *Nanfang Zhoumo* (Southern Weekend), 13 January 2010.

63. On black prisons, see Human Rights Watch, "An Alleyway in Hell: China's Abusive 'Black Jails,'" November 2009, https://www.hrw.org/sites/default/files/reports/china1109webwcover_1.pdf (consulted on 20 August 2012).

64. For a comprehensive record of one *weiguan* operation at a black prison, see Teng Biao, "Gongmin zai xingdong" (Citizens in action), *Gongmin yuekan*, January 2009.

65. Three Fujian netizens, You Jingyou, Fan Yanqiong, and Wu Huaying, posted comments on the Internet regarding the Yan Xiaoling case, and apart from seeking redress for injustice, suggested that the Minqing police were shielding a criminal gang. The Mawei procuratorate charged the three with framing the police. After three hearings, the court found the three netizens guilty of slander. Throughout the trial, netizens converged on Fujian in a show of support and sustained interest in the case through postings on the Internet.

66. Wang Debang, "Qushahua, qi liangzhi: Fuzhou 'san wangmin an' weiguan shijian qianxi" (Exercising conscience: A superficial analysis of the 'Three Fujianese Netizens' surrounding gaze incident), *Minzhu Zhongguo*, 8 May 2010.

67. Wang Ze, "'Weiguan' chuangzao lishi: 4.6 qinlizhe de zishu" (The surrounding gaze creates history: An account by a 16 April [2010] participant), *HRIC Biweekly*, 6 May 2010.

68. Zhang Jianfeng, "Duli renda daibiao shi nian fuchen" (The ebb and tide of independent people's congress delegates), *Southern Exposure*, no. 16, 2009.

69. For observations on the 2011 people's congress elections in Beijing and Guangzhou, see Xu Zhiyong and Ai Huanhuan, "Shiluo de Guangzhou renda xuanju: Gongmeng 2001 xuanju guancha zi er" (The lost Guangzhou people's congress election: *Gongmeng*'s election survey no. 2); and Ai Huanhuan, "Dang lindaoxia de minzhu: Beijing xuanju guancha" (Democracy under the Party's leadership: A survey of the Beijing elections), Beijing, Open Constitution Initiative, 2011, http://gongmengchina.com (consulted on 20 August 2012).

70. Teng Biao, "Gan wen lu zai hefang: Ping Fujian, Hebei deng di nongmin bamian renda daibiao an" (Daring to ask the way: A critique of people's congress recall campaigns among the peasants of Fujian, Hebei, and other localities), *Xiandai wenming huabao*, July 2004.

71. Regarding the Taishi Village incident, see the related Chinese Wikipedia entry, http://zh.wikipedia.org/wiki/%E5%A4%AA%E7%9F%B3%E6%9D%91%E7%BD%B7%E5%85%8D%E4%BA%8B%E4%BB%B6 (consulted on 20 August 2012), an English-language summary on the *EastSouthWestNorth* blog, http://www.zonaeuropa.com/20050919_1.htm (consulted on 20 August 2012), and Ai Xiaoming's documentary *Taishi Village*.

72. Teng Biao, "Cong 'lianghui' kan shuhui xuanpiao yundong" (The "buy back the vote" movement from the angle of the "two conferences"), http://blog.boxun.com/hero/2007/tengb/13_2.shtml (consulted on 20 August 2012).

73. In 2009, Ling Cangzhou and others issued open letters entitled "Boycott CCTV, refuse brain-washing" and "Farewell, propaganda and lies," the latter of which enumerated ten practical methods for boycotting official media and rejecting falsehood, including: no longer subscribing to or purchasing publications that published inaccurate reports or covered up major incidents, and to communicate protest to these media via telephone, fax, email, blogs, discussion forums, or text messaging; to the greatest extent possible, patronizing online news services, listservs, and e-trade that provided relatively objective and comprehensive coverage with a lesser degree of screening; and refusing to accept invitations or interviews from news media that provided inaccurate reporting or that covered up major incidents. See Radio Free Asia, "Ling Canzhou deng 28 ren fabiao 'Zaijian! Xuanchuan yu huangyan' gongkaixin" (Ling Canzhou and 27 others issue open letter "Farewell, propaganda and lies"), 18 March 2009, www.rfa.org/mandarin/yataibaodao/openletter-03182009090819.html (consulted on 20 August 2012).
74. In a recent example, members of the public in Shifang County, Sichuan Province, expressed their disapproval of police violence against protesters by posting signs stating "No police officers allowed" in the windows of restaurants and shops.
75. TN: Journalist Shi Tao was detained in 2004 after Yahoo! provided the Chinese authorities with account information relating to an email he sent to a US-based website. See Amnesty International, "Imprisoned for Peaceful Expression," www.amnestyusa.org/our-work/cases/china-shi-tao (consulted on 20 August 2012).
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78. TN: An associate professor of law at China Youth University of Political Science,Yang was dismissed after the birth of his second child. See "How Many Fetuses Killed in 40 Years?", *China Digital Times*, 19 June 2012, http://chinadigitaltimes.net/2012/06/how-many-fetuses-killed-40-years (consulted on 20 August 2012).
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80. TN: See for example an appeal by Ai Weiwei for a one-day Internet boycott on 1 July 2009: *Deutsche Welle*, "Ai Weiwei huyu 'bawang' yitian" (Ai Weiwei calls for a one-day Internet boycott), 23 June 2009, http://dailynews.sina.com/bg/chn/chnpolitics/dwworld/20090623/0331380783.html (consulted on 20 August 2012).
81. See Teng Biao, "Zhongguo gongmin yundong zhong de minjian jilupian" (Privately-made documentaries in China's civic movements), *Open Magazine* (*Kaifang*, Hong Kong), no. 8, 2010.
82. The Chinese term for feasting, *fanzui*, is a homonym for committing a crime, and in this case refers to public gatherings in defiance of government controls or prohibitions. The phrase carries a taunt against totalitarian government.
83. Lu Jun, "Lun wangluo shehui yundong" (On Internet social movements), www.bjpopss.gov.cn/bjpssweb/n32725c27.aspx (consulted on 20 August 2012).
84. Liu Xiaobo, "Minjian weiquan zai susha zhongcheng zhang" (The tough upbringing of popular rights defence), in Liu Xiaobo, *Weilai de ziyou Zhongguo zai minjian* (The future free China lies with the people), Laogai Research Foundation, December 2010.

85. TN: Gan Jinhua was sentenced to death in 2005 for a robbery that resulted in the death of two nuns. See Amnesty International, "Urgent Action: Chinese Man Faces Death Penalty," 15 January 2010, www.amnesty.org/en/library/asset/ASA17/004/2010/en/04b0c3e6-b183-4be8-bb42-b8a07e287c7d/asa170042010 en.pdf (consulted on 20 August 2012).

86. TN: Wu Changlong was handed a suspended death sentence in connection with a fatal bomb explosion in Fuqing City, Fujian Province, on 24 June 2001. Wu appealed on the basis that his confession was extracted under torture. See Human Rights in China, "Veteran Fuzhou Lawyer Sues Judicial Bureau to Assert Right to Practice, Puts Spotlight on Two Other Flawed Cases," 3 August 2010, https://www.hrichina.org/en/content/833 (consulted on 20 August 2012).

87. Labour rights activist Li Wangyang was found hanged in a hospital room one year after his release from serving a 21-year prison sentence for counterrevolutionary propaganda, incitement, and subversion. Mass protests broke out in Hong Kong after police declared Li's death a suicide, and then an "accidental death," conclusions that were rejected by Li's family and local activists. See www.liwangyang.org (consulted on 20 August 2012).

88. Wu Mao, "Cong 'Ni mama han ni huijia chifan' kaiqi de Zhongguo hulianwang 'xingwei yishu'" (China's Internet "performance art" in "Your mother is calling you home for dinner"), *Shidai zhoukan*, 12 January 2010; *China Digital Times*, "'Guo Baofeng, Your Mother is Calling You Home for Dinner!' (With Slideshow)," 26 July 2009, http://chinadigitaltimes.net/2009/07/guo-baofeng-your-mother-is-calling-you-home-for-dinner%E2%80%9D-with-slideshow (consulted on 20 August 2012).

89. See Eva Pils, "The Dislocation of the Chinese Human Rights Movement," in Stacy Mosher and Patrick Poon (eds.), *A Sword and a Shield: China's Human Rights Lawyers*, Hong Kong, China Human Rights Lawyers Concern Group, 2009, pp. 141-159.

90. You Minglei was placed in criminal detention on 5 May 2012 on charges of "incitement to subvert state power" for distributing leaflets. He was released one week later. See "Hulianwang liliang yang You Minglei an xianzhuanji" (The power of the Internet brings a turn for the better in the You Minglei case), 13 May 2012, www.singsquare.com/drupal712/zh-hans/content/ %E4%BA%92%E8%81%94%E7%BD%91%E5%8A%9B%E9%87%8F%E8%AE%A9%E6%B8%B8%E6%98%8E%E7%A3%8A%E6%A1%88%E7%8E%B0 (consulted on 20 Au-gust 2012).

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93. "Beifeng: Hu Wen zhuzhengjian 'zhengzhifan' zengduo" ("Political crimes" increase under the Hu Wen administration), *Deutsche Welle*, 27 June 2012, www.dw.de/dw/article/ 0,,16052621,00.html (consulted on 20 August 2012).

94. Zhao Dingxin, *Shehui yu zhengzhi yundong jiangyi* (Teaching materials on society and political movements), Shehui kexue wenxian chubanshe, 2006, p. 112. Qiu Qingfeng was a Peking University student who was raped and murdered on 19 May 2000. Students protested when the university authorities prohibited memorial activities and the wearing of mourning corsages. See the related Wikipedia entry, http://zh.wikipedia.org/zh/ %E9%82%B1%E5%BA%86%E6%9E%AB%E4%BA%8B%E4%BB%B6 (consulted on 20 August 2012)

95. Kang Xiaoguang, *Qisu: Weile Li Siyi de beiju bu zai chongyan* (A lawsuit: So that Li Siyi's tragedy will not be repeated), Hong Kong, Mingbao chubanshe, 2005.

96. From 7 June 2009, rights defender Feng Zhenghu was denied re-entry into China eight times. On 4 November 2009, Feng Zhenghu began a peaceful protest by camping out at Tokyo's Narita Airport. He was eventually allowed to re-enter China after 92 days. The affair was reported through Twitter and other social media and attracted wide attention.

97. Teng Biao, "Falüren yu fazhi guojia" (Legal professionals and the rule of law state), *HRIC Biweekly*, no. 46, 24 February 2011.
98. There have been too many articles and analyses on the Chen Guangcheng case to cite here. Regarding the "online advertisements for marriage partners," see Gan Lu, "Ziyou Guangcheng huodong yinfa wangyou Linyi zhenghun re" (Free Guangcheng campaigns spark off a rash of netizen spouse-seeking advertisements in Linyi), *New Century News*, 2 December 2011, www.new-centurynews.com/Article/china/201112/20111202195258.html (consulted on 20 August 2012).
99. Li Fan, *Dangdai Zhongguo de ziyou minquan yundong* (Modern China's freedom and human rights movement), Taiwan, Juliu tushu gongsi, July 2011, pp. 195-196.
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107. Hu Yong, *op. cit.*, pp. 5, 19. "Common-shared media" is a concept put forward by Hu referring to "communications for all, by all."
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109. Paul Virilio, *Virilio Live: Selected Interviews*, (John Armitage ed.), London, Sage, 2001, p. 78.
110. For example, after writing an article, one can upload it at a set time through a microblog.
111. Li Yonggang, *Women de fanghuoqiang* (Our firewall), Guilin, Guangxi shifan daxue chubanshe, 2009.
112. Clay Shirky, *Here Comes Everyone: The Power of Organizing without Organizations*, London, Penguin Press, 2008.
113. Sidney Tarrow, *Power in Movement: Social Movements and Contentious Politics*, Cambridge University Press, 1998, pp. 49-50.
114. Vaclav Havel, "The Power of the Powerless," in Vaclav Havel *et al.*, *The Power of the Powerless: Citizens Against the State in Central-Eastern Europe*, Abingdon (UK), Routledge, 2010, pp. 10–60.
115. Larry Diamond, "Liberation Technology," *Journal of Democracy*, vol. 21, no. 3, July 2010.
116. Of course, we should here recall what Charles Tilly warned about technological determinism in these changes, which may "result less from the adoption of digital technologies as such than from alterations in the political and economic circumstances of social movement activists." Charles Tilly, *op. cit.*, p. 106.

117. Xiao Shu, "Zhongguo shehui de liangji zhendang yu chuanbo geming" (Chinese society's polar oscillation and dissemination revolution), *Jingji guanchabao*, 20 July 2009.
118. TN: Qian Yunhai, a popular elected village head in Zhejiang Province who had a long history of fighting alleged abuses by local government, was crushed under a truck at a building site on 25 December 2010. An eyewitness said that four men held Qian down while the truck was driven over him. See Edward Wong, "Suspicious Death Ignites Fury in China," *The New York Times*, 28 December 2010, https://www.nytimes.com/2010/12/29/world/asia/29china.html (consulted on 20 August 2012).

ABSTRACTS

The rise of China's rights defence movement has occurred in tandem with the rapid development of the Internet in China. Various forms of rights defence inside and outside of the courtroom have emerged and developed alongside changes to China's ideological, political, and legal systems and social structure. Similarly, Internet technology such as microblogs and other social media are enriching the modalities of activity in the rights defence movement, enhancing the mobilisation capacity of activists, and accelerating the systematisation of popular rights defence, profoundly affecting China's ongoing political transformation.

INDEX

Keywords: weiquan, social movement, web 2.0, social media, civil society

AUTHORS

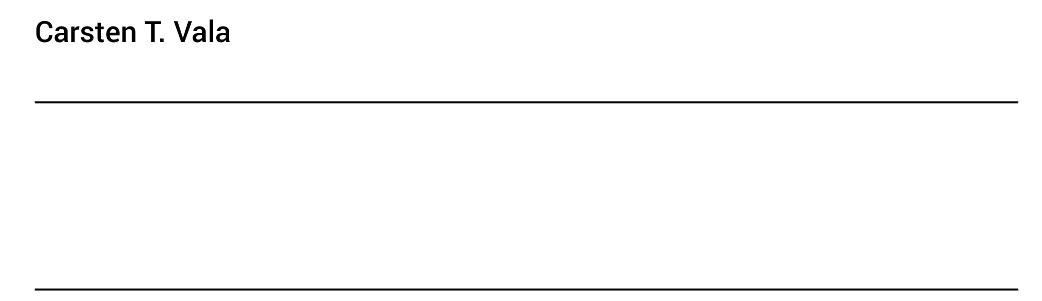
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Protestant Christianity and Civil Society in Authoritarian China

The Impact of Official Churches and Unregistered "Urban Churches" on Civil Society Development in China in the 2000s

Carsten T. Vala



ABSTRACTS

Religious groups can reinforce, complement, or undermine authoritarian domination. This article investigates whether high-status Protestant churches act as democratising civil society organisations by gathering hundreds of Protestants openly outside state structures to change church registration policies. In so doing, they also seek to curtail state domination over religion and, by extension, over all groups in society.

INDEX

Keywords: authoritarianism, civil society, house churches, Protestant Christianity

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Protestant Christianity and Civil Society in Authoritarian China

The Impact of Official Churches and Unregistered "Urban Churches" on Civil Society Development in the 2000s

Thomas E. Kellogg

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1 What is the role of Western funders in China? This seemingly straightforward question has been difficult for many to answer. For many donors, one particularly thorny question has been whether to channel funding and other forms of support of government and academic partners, or whether grassroots civil society organisations, which are often the key recipients of Western rule of law funding in other parts of the world, should play a more active role.

2 Both approaches have their merits: given the state's deep involvement in virtually all aspects of Chinese life, meaningful change is often impossible without the state's active participation or, at the very least, tacit approval. At the same time, civil society organisations, even in their current relatively weak and underdeveloped state, can and do play a key role in focusing both government and public attention on issues that need to be addressed, and in proposing progressive solutions to those problems.

3 In this article, I argue that all Western entities working on rule of law in China – including not just private foundations, but also US and European government-affiliated donor organisations and international NGOs active in China, among others– need to pay more attention to the development of civil society organisations, in particular rights-based and advocacy-based civil society organisations. I argue that support for such organisations can be beneficial not only in terms of the growth and development of the civil society sector, but also in terms of substantive progress on the rights-based issues that these groups address. In some ways, as I will argue in more detail below, rights-based civil society organisations may be more effective in their pursuit of a progressive reform agenda than government-affiliated organisations or university-based entities, both because they are able to initiate grassroots-level momentum for change, and because they are able to have an impact on the enforcement of China's own laws, a key

weakness that has hindered progress on the development of the legal system as a whole.

4 I argue that a deeper focus on advocacy-based civil society is all the more important in 2012, for the simple reason that the momentum for government-led, top-down reforms seems to have slowed. In the absence of reformist momentum at the top – save, as I note below, on a few key issues such as open government information and certain aspects of criminal justice reform – the need for creative and innovative bottom-up approaches becomes all the more crucial. I also offer a few suggestions from a practitioner's perspective on strategies for deeper engagement with grassroots NGOs in China.

Historical background: Changing China, evolving funding strategies?

5 The preference for collaboration with government or academic partners has deep roots.[1] The earliest Western donors funding civil society and rule of law initiatives began working in China in the mid-1980s, just a few years after the reform era began in 1978. At that time, there were virtually no civil society organisations in China with which to work – academic and government partnerships were almost the only option.

6 Donor engagement intensified in the mid-1990s, when Western-funded rule of law programming began to be seen as a more politically palatable alternative to more traditional forms of human rights advocacy. In 1994, then-President Clinton famously "delinked" human rights concerns from the annual renewal of China's most favoured nation trading status. Casting about for a substitute for the human rights-trade conditionality that he had finally concluded was unworkable, President Clinton eventually embraced a cooperative rule of law approach as the new centrepiece of his China rights policy.[2] In 1997, the US and China formalised their agreement to cooperate on initiatives to aid in the development of the rule of law in China.[3] Many European countries followed suit around that time.[4] Within five years, the US Congress had overcome its initial reluctance to engage, and began to offer significant funds to American NGOs, universities, and law schools looking to develop cooperative rule of law programs with Chinese actors. For many, Chinese universities, think tanks, government-affiliated entities such as the All-China Lawyers Association and the All-China Women's Federation, and government agencies were seen as the best possible partners for Western-funded legal reform programs.

7 International donor engagement in China grew at a rapid pace.[5] By the early 2000s, the number of funders, both public and private, active in China numbered in the hundreds. [6] According to one estimate, international donor support for work in China surpassed $100 million in 2000.[7]

8 Today, close to 20 years after President Clinton's shift, many of the rule of law and civil society development programs that began in the mid-1990s remain a key element of both American and European approaches to reform in China. Yet, in the aftermath of the 2008 global economic crisis, which left many Western countries slashing their foreign aid budgets, and with China increasingly seen as economically strong enough to be a donor rather than a recipient of aid, some donors are pulling out of China.[8] It may

be the case that this phase of more intensive engagement with China on legal reform is coming to an end.

9 In the late 1980s and early 1990s, partnering primarily with either government or university-based actors could be more easily justified: at that time, there were few truly functional non-governmental organisations to partner with. In addition, it was believed that university-based actors had particularly good access to government decision-makers, thus giving them the ability to have an almost unique form of influence over legislative drafting and policymaking processes.

10 Much has changed in China since that time. First and foremost, China's civil society movement has expanded dramatically: the official tally puts the total number of NGOs at roughly 450,000, and unofficial estimates climb as high as 8 million.[9] The sophistication and political savvy of the best of the best of Chinese grassroots organisations are truly impressive, allowing at least some NGOs to achieve a level of impact that would have been unthinkable five or ten years ago. For many Western organisations working in China, this means more options in terms of potential partnerships than in years past.

11 At the same time, the past several years have also seen a diminishing commitment by the state to pursue wide-ranging legal reforms. As two Chinese scholars put it in a recent article, "There is no convincing evidence that the Party is now engaging in meaningful reforms, although in some areas positive improvements have been made."[10] In particular, the state has been unable or unwilling to address shortcomings in implementation and enforcement of laws; the development of stronger and more independent legal institutions has also been an area in which progress has been frustratingly slow.[11] The optimism that surrounded small but meaningful steps toward reform in 2003-2004 has long since given way to deep-seated pessimism in many circles, with many declaring the government-led reform process dead in its tracks.[12] In February 2010, prominent law scholar Jiang Ping told an elite legal academic audience, "Looking at China's current situation, I think we are in a period where the rule of law is in retreat. Or perhaps, building the rule of law, judicial reform, and political reform are all moving backwards."[13] Many observers have concluded that the lack of momentum on the government side means that initiatives for reform will come from the grassroots rather than from inside the walls of Zhongnanhai. In other words, perhaps somewhat surprisingly for an authoritarian state such as China, change will more often be a bottom-up rather than a top-down process.

12 In many ways, the party-state has been quite open about its movement away from legal reforms in line with international standards related to the rule of law, including independent legal institutions, an emphasis on procedural justice, and fair and transparent adjudication. Senior Party officials with responsibility for the legal system have repeatedly remarked on the inappropriateness to the Chinese context of "Western" legal norms and institutional arrangements, and have emphasised the key political role of the courts in maintaining social stability.[14]

13 The Chinese government's reduced interest in legal reform raises difficult questions for international actors working in China. When new, seemingly conservative policies begin to emerge, is it better for Western actors to decline to participate in the implementation of a policy that, at least in some ways, may represent a retreat from rule of law values? Or is it better to try to have a positive – and perhaps in some small way, ameliorating– influence over the introduction of a new policy that is already a fait

accompli? As Beijing made known its preference for mediation, for example, legal academics and others who advise the government on court reform were called upon to provide intellectual guidance for the courts as they implemented the new policy. Some of these legal academics turned to their Western partners for information and advice on the use of mediation in Western legal systems.[15] To be sure, mediation can be a valuable part of any dispute resolution system. But the political motivations behind its embrace in China in recent years are such that the benefits of the new policy to legal development and the rule of law are in doubt, making it more difficult for Western rule of law advocates to justify engagement on this topic.

14 The conservative shift by Beijing on legal reform also has broader, more holistic implications for Western rule of law initiatives. Direct engagement with the Chinese government on legal reform has often been justified in part by reference to the Chinese government's own self-interest in legal reform.[16] And, one could argue, there have been moments when an identifiable reformist faction existed within the upper reaches of the party-state. In the 1980s, for example, reform-minded officials worked quite closely with liberal intellectuals, some of whom in turn worked with Western donors, who supplied them with much-needed comparative rule of law models.[17] As noted above, in the late 1990s and early 2000s, significant progress was made on strengthening the court system; no doubt the introduction of comparative models was helpful to that process.

15 No such reformist faction can be identified in Chinese politics today, and state policy has turned away from even the modest technocratic reform approach of ten to 15 years ago. To be sure, individual government officials may well form common cause with civil society activists to push specific reforms. But they do so against a backdrop of a much more conservative state policy toward legal reform in general. This conservative shift by the party-state should trigger a strategic re-think by those Western actors who have focused their collaboration on government and government-affiliated entities.

16 And yet, despite this shift in the overall political environment, and despite many troubling signals that the party-state has lost interest in progressive legal reform, all too many Western actors working in China in 2012 are pursuing similar strategies and working with similar or even the same Chinese partners that they were working with in 2002. A recent article analysing US foundation funding in China noted that the lion's share of US foundation dollars goes not to grassroots NGOs, but rather to government bureaus and government-affiliated entities, including academic institutions.[18] According to this analysis, a small handful of government bureaus, government-affiliated think tanks, and university-based research centres accounted for a very high percentage of the overall funding picture, suggesting that many Western donors are concentrating their funding streams in a very small number of Chinese institutional hands.[19]

17 In some ways, 2012 would be good time to take a fresh look at the forms of engagement by Western actors on rule of law and civil society development. Increased attention to rights-based civil society organisations is now possible as a result of the emergence of a small but growing number of such organisations over the past several years. While many of the best advocacy organisations that have been created over the past few years have been environmental groups, groups focusing on other issues, including anti-discrimination, women's rights, disability rights, and the rights of persons with HIV, have also emerged. What makes these groups different from the much larger number of

service-based entities that make up the vast majority of civil society organisations in China is their willingness to experiment with advocacy tools that are, as yet, not yet widely used in the Chinese context, including media strategies, public mobilisation strategies, strategic litigation, research and reporting, use of the reporting mechanisms of international treaty bodies, public protest (which the groups themselves usually refer to as *xingwei yishu*, or performance art), and, in some cases, direct advocacy with government officials. Their ability to deploy these tools, often in creative and innovative ways, sometimes allows these groups to be more effective than other potential partner organisations that don't use these tools.

18 Perhaps even more than service-based NGOs, which themselves often have difficulties with the government, advocacy-based NGOs have to be experts in the art of risk management. They regularly have to make difficult decisions on when to push the envelope and when to hold back. They also have to be extremely flexible: often unable to register as civil society organisations, they more commonly register as companies or decline to register at all. Only through regular engagement with the relevant authorities, including not just health, environment, and civil affairs officials, but also bank clerks, tax collectors, and even state security agents, are they able to keep their doors open.

19 To be sure, in the conservative climate of China in recent years, not all of these organisations have survived. In 2009, one of the most innovative organisations in China, the Beijing-based *Gongmeng*, or Open Constitution Initiative, was forced to close its doors after one of its founders was temporarily detained on tax charges that were widely seen as politically motivated.[20] Although the pathbreaking HIV/AIDS group Aizhixing remains open, its founder, Wan Yanhai, fled China in May 2010 after months of harassment by the authorities.[21]

20 And yet, despite the very real political difficulties they face, not only do the vast majority of these groups continue to operate, but many of them have grown in size, sophistication, and impact, and new organisations have been formed.[22] The emergence of these organisations – non-governmental, grassroots, and focused on rights-based advocacy – has as yet received little attention from scholars both inside and outside of China.

21 At the risk of stating the obvious, the situation in China in 2012 is complex. Many different actors, both inside and outside of the state structure, are pushing for progressive change. There is also a benefit to the pursuit of contrasting, complementary strategies by different funders. It cannot be said, and this article does not argue, that support for state-led reform projects does not make sense; nor do I argue that all civil society-based projects are productive. Certain reforms in recent years – including important advances in open government information[23] and the recent reform of the criminal law – were more state-led, often with the help of senior Chinese and Western academic experts; to ignore these important reforms would be to fail to understand the full picture of how progressive legal change happens in China.

22 That said, many of the Chinese organisations that are engaged in innovative and path-breaking advocacy work have yet to come onto the radar screen of international organisations working in China. This needs to change. A growing number of observers, both Chinese and Western, believe that change in China is more likely to be bottom-up than top-down. If so, international support should increase for truly grassroots civil

society organisations that work within the system for meaningful, if incremental, reform.[24]

Why rights-based advocacy?

23 In many other parts of the world in which Western donors are active, the question may be self-evident: support for rights-based advocacy organisations is the preferred mode for donors looking to have an impact on human rights and the rule of law.[25] For better or worse, grassroots organisations in many countries working on a range of issues have chosen to articulate their goals in the language of rights. These groups often work closely with local and national governments to achieve legislative change, and they also attempt to use litigation tools to achieve their goals. They maintain regular contact with international human rights groups working on similar issues, and often act in coordination with those groups to pursue advocacy opportunities within the UN human rights system, taking advantage of the various country review mechanisms created by various international human rights treaties.

24 While these approaches, and the formation and development of NGOs that can pursue them, have been central to the strategies of both domestic activists and international donors working in many different countries, China has been a latecomer to many of these approaches, and some of these tools remain of limited utility in the Chinese context.

25 Instead, international actors working in China have relied more heavily on partnerships with official actors, including university-based research centres, government-affiliated think tanks, and government bureaus such as the Ministry of Health. Even with the emergence of new organisations that embrace a rights-based advocacy approach, many donors remain committed to a more state-centric model.[26] The argument for doing so is not without merit: the state remains omnipresent in China, and little meaningful change can be achieved without the party-state's consent. Working directly with state actors, or with academics whose voices are influential inside the walls of Zhongnanhai, may seem like the most direct path to reform.

26 And yet, there is reason to believe that this approach may be less effective than it was in the past. The decision to work directly with state actors or with academics on the creation of new laws and policies implies a view of how and why legal change happens in China: the government, benefiting from the technocratic expertise of Western advisors, drafts a law that solves a legal problem, and then implements that law nationwide.

27 Yet it remains open to question whether this model accurately represents how progressive legal reform happens in China. As noted above, the party-state's appetite for reform may now be at the lowest it has been in decades, which means that projects seeking to work directly with the state to achieve change may founder on the rocks of political inertia.

28 In a number of cases in recent years – including key advances in anti-discrimination law,[27] reforms to China's mental health system,[28] increased emphasis on due process in the courts,[29] and the elimination of a particular form of arbitrary detention known as Custody and Repatriation (*shourong qiansong*),[30] to name but a few examples – legal change was triggered by different combinations of social activism, non-governmental

advocacy, public interest litigation, media attention, and mobilisation of public opinion, all of which put pressure on the state – or gave reformists within the state structure the opportunity – to take action. Given this growing list of progressive reforms that have been pushed forward by bottom-up grassroots activism, Western donors should consider whether they should place a higher priority on getting resources to the NGOs, lawyers, and others who have helped spark these bottom-up reform movements. At the very least, for those who view collaboration with civil society as less impactful – and therefore less desirable – than collaboration with the government, these and other examples of meaningful bottom-up change should provide food for thought as to whether prior strategic decisions on how to make a difference in China remain as valid as they once were.

29 One particular area of interest for Western actors looking to have an impact on civil society development in China has been the regulatory framework governing NGOs.[31] Over the years, various international actors have collaborated with Chinese governmental and academic partners, particularly Chinese university-based NGO study centres, to produce various studies that offer recommendations on how to reform Chinese NGO law. While the regulatory framework for civil society organisations in China is important, a decision to focus on the legal framework also may elide the fact that the state views the legal framework for civil society as a mechanism for control.[32] It is certainly true that, in recent years, the party-state has been willing to adopt more flexible approaches to oversight of the civil society sector, but it is possible that this flexibility is not part of a paradigm shift by the government, but rather part of a more sophisticated approach to social management.[33]

30 An emphasis on NGO law also elides the fact that in China, legal change often follows, rather than leads, changes to the situation on the ground. Therefore direct support for civil society organisations, particularly new and up-and-coming groups, may have a more significant – if admittedly more indirect and difficult to quantify – impact on government policy and law over the long term.

31 Even if legal reforms lead to a more liberal regulatory framework for civil society organisations, those reforms will be subject to politics. As one scholar has noted, "Although contemporary CCP policy may be much more legalistic, implementation of these policies is still very political."[34]

32 In other words, the success of any legal reforms that do emerge over the coming years will depend in significant part on the ability and willingness of civil society organisations to push the envelope and insist on recognition for rights-based advocacy activities. If only service-based organisations can register, then any changes to the legal framework governing NGO activity must be judged a mixed success at best.

33 Western donors focused on the overall infrastructure of civil society in China should also ask whether the infrastructure they are helping to create is largely geared toward the creation and development of service-based NGOs. To be sure, the growing number of service-based NGOs in China is a positive development: many such organisations provide much-needed services to the communities they work with, and their work may make many local governments more comfortable with the general notion of civil society. However, Western donors need to ask whether they are making the assumption – explicit or implicit – that service organisations will eventually evolve into rights-based advocacy organisations.

34 While this assumption seems, on its face, quite reasonable, there are also good reasons to doubt it. Many service-provision organisations, if they are successful at delivering services to marginalised communities, may – quite reasonably – decide not to rock the boat and stick with service provision. An excessive focus on service provision, however, presents both benefits and potential costs for grassroots organisations. First, in some ways, service provision may be bad for the long-term sustainability of some groups. If the state decides that a certain service is no longer needed, or if it is willing to provide that service on its own, then what role will service provision NGOs have left to them?[35]

35 In many cases, there are also limits to what a service provision approach can achieve. An excessive focus on services can inculcate a mentality that marginalised groups should be dependent on government for the provision of services, rather than mobilising to vindicate their own rights. Even more importantly, a focus on service provision may put a number of key problems almost entirely beyond reach.

36 In the area of disability, for example, there are many issues on which improvement is impossible without first changing government policy, as well as deeply-entrenched state practice. Despite a formal legal prohibition on discrimination against persons with disabilities, many disabled persons find it difficult to access regular schools, and are either placed in special schools or, all too often, left at home. While it is true that education is a "service," civil society organisations in China looking to have an impact on improved access to education for disabled persons will inevitably have to confront very severe shortcomings in government policy and practice. In order to do so effectively, such organisations would have to formulate and implement advocacy strategies that are geared toward changing current policies and laws.

37 One of the key reasons that many civil society organisations choose to stick with service provision is that they find it easier to raise funds to engage in service provision, and much more difficult – if not impossible – to raise funds to engage in advocacy. As in many countries, the Chinese government is a key funder of civil society organisations, either on its own or often acting in tandem with international donors. Yet these funds often come with strings attached, including very clear limits on the nature and scope of the work that the organisation should engage in.[36] A number of grassroots activists, working in various subject areas, have told this author that state funds are often reserved for organisations that don't cause trouble.

38 In light of these very real restrictions, the need for Western donors to support organisations that are willing to experiment with advocacy-based approaches becomes all the more apparent. Those advocacy-based organisations that have already emerged have begun to serve as informal models for other organisations looking to both better understand what kinds of NGO activity are possible in the Chinese context, and to expand their own skill set.

39 At the very least, Western donors choosing to focus on the state infrastructure for regulating civil society organisations should have an articulated strategy for how the evolution of that infrastructure, and of the service-based groups being sheltered within it, will take place, and what specific steps need to be taken to facilitate this evolution. In the absence of this strategy, Western donors may end up contributing less to the development of a more vibrant civil society in China and more to the creation of the kind of well-managed, service-based social sector that many observers believe is the Chinese government's overall goal.

Benefits of advocacy-based approaches

40 There are many ancillary benefits to working with civil society organisations that have too often been overlooked: when Western actors collaborate with non-governmental groups in China, they have the opportunity to engage in extremely valuable forms of skills transfer, and to assist in the institutional development that is crucial to the overall development of civil society in China.[37] Increasing collaboration by international actors with Chinese civil society groups may also raise their stature in the eyes of the government, which is still very wary of non-governmental groups, and often sceptical of the notion that they should be consulted on key law and policy issues.

41 Those ancillary benefits are important, but they are not as important as the fact that, on a number of issues, civil society organisations are often more impactful than governmental or academic actors. By virtue of their willingness to make use of advocacy tools that state-affiliated actors are less able or less willing to use, advocacy-based NGOs may be more effective at pursuing change. In some cases, their work may serve as a useful complement to the work of reformists working within the system itself.

42 In addition, grassroots organisations often possess a number of unique assets that may make them more effective than government-affiliated organisations. First and foremost among these would be a higher degree of legitimacy, often by virtue of the fact that many organisations have been created and run by members of the community they serve. Whether it be in the area of HIV/AIDS, LGBT rights, women's rights, migrants' rights, or other issues, drawing primarily or even exclusively from the community itself can be a key component of creating legitimacy for any organisation and also of creating pathways for knowledge.

43 If grassroots organisations are well networked within the community, then they may be able to effectively engage in social mobilisation strategies in order to achieve their goals. Very much aware of the state's obsession with social stability,[38] civil society activists can use the mobilisation of constituent communities to focus both public and governmental attention on a particular issue, and to generate political will for reform. At the very least, this kind of social mobilisation can increase the costs to the government of inaction, changing the cost-benefit analysis that the state must engage in when considering whether and how to respond to calls for change. Given the lack of progress on establishing transparent and independent legal channels for redress of grievances,[39] social mobilisation may be one of the most potentially effective tools for change in China today.

Strategies for grassroots NGO grantmaking

44 Given the many differences between grassroots civil society organisations and larger, more bureaucratically stable GONGOs, academic centres, and think tanks, grantmaking to grassroots entities can be quite difficult, and can require a somewhat different approach by Western donors. In particular, grantmaking to grassroots civil society organisations requires a greater degree of flexibility and a bit more patience on the part of the donor.

45 Perhaps the most important element of working with grassroots civil society organisations is a willingness to give small grants. Some organisations have expressed reservations about giving small grants, not least because doing so often increases the bureaucratic burden on the donor, which in most cases has to engage in the same amount of paperwork, and cover the same transaction costs, for a $20,000 grant as it does for a $200,000 grant.[40] And yet, the vast majority of grassroots organisations can only handle funding in small amounts, as they lack the capacity to make use of larger grants. In other words, an ability to give small grants is a crucial component of a civil society-based strategy.

46 Western funders also must put aside their own notions of what a grassroots NGO "looks like," and be willing to embrace the various forms that Chinese civil society organisations adopt, especially in the early years of their existence. Many grassroots groups are unable to register for years after they are first established,[41] while others choose to register as private companies rather than as non-profit entities. A number of grassroots groups lack many of the components that are considered crucial elements of an NGO in the West, including independent boards, separate, dedicated finance and administration staff, or even, in some cases, a fixed office.[42] While working with less fully established organisations does present very real logistical difficulties for Western donors, it is nonetheless a key aspect of deeper engagement with grassroots civil society in China.

47 It must be acknowledged that grassroots NGOs, often lacking in bureaucratic capacity, can be more difficult to work with than other, more established entities. In order to work effectively with grassroots organisations, donors must embrace that lack of capacity, and respond to it with a greater degree of flexibility in terms of grant applications, reporting, and other donor-imposed requirements.

48 Also important – as well as difficult and very labour-intensive for Western grantmaking organisations – is a willingness to seek out and engage with start-up organisations. At the risk of stating the obvious, the only way to "grow" a field is to ensure that there are new entrants into it, particularly in parts of China that up to this point have seen less civil society formation, which includes almost anywhere outside of Guangdong, Yunnan, and Beijing. In some cases, support for small projects by individual activists who may then go on to form new organisations can be an effective tool for generating new civil society activity.

49 There is another reason why support for start-ups is important. In some key thematic areas of NGO work in China, a "usual suspects" problem has emerged, in which a number of Western organisations, both donors and those looking to implement projects, all approach the same two or three civil society organisations working in that field. While it can be beneficial for Chinese organisations to have contact with a number of different Western partners, it is also important that Western actors coordinate among themselves so as to avoid overloading any particular organisation, and to ensure that resources are spread across a thematic sector rather than concentrated in the hands of a small number of civil society groups.

50 A willingness to support new and recently-formed organisations also requires a certain degree of patience. In my experience, many start-up organisations make mistakes in their first year or two, often learning and improving through a process of trial and error. Perhaps surprisingly, one common mistake is for organisations to be over-ambitious in terms of what they can accomplish, and to take on more work than they

can handle, thus causing them to fall behind on their commitments to their initial slate of projects. If a start-up organisation fails to deliver on its initial set of "deliverables," donor organisations should work with the grassroots group to improve its own strategic decision-making, rather than ending the funding relationship.

51 A decision to focus on civil society also requires a willingness to have one's thematic areas of focus determined at least in part by which areas are more receptive to civil society engagement. Given the political sensitivity of issues related to criminal justice reform, and the continued use, when needed, of the criminal justice system as a tool for silencing political dissent, for example, it seems unlikely at present that civil society organisations would be able to meaningfully engage in criminal justice reform. Media reform, and free expression more generally, would be another area in which civil society engagement would seem almost impossible.

52 A small number of such issues aside, the areas in which Chinese advocacy groups can and do have an impact are many and varied, including disability rights, women's rights, labour rights, and LGBT rights.

53 Some have argued for a greater focus on institutional reforms, suggesting that improvements in China's judiciary, for example, will have a cross-cutting impact on the entire Chinese legal system.[43] While opportunities to engage with Chinese officials on wide-ranging structural reforms can indeed be valuable, work with civil society organisations can also have a broader institutional impact. Advocacy-based civil society organisations engage with government agencies and legal institutions in a number of ways, whether through policy advocacy with health officials, for example, or through public interest litigation in China's courts, or through working with National People's Congress delegates to push specific legislative changes to better protect the rights of disadvantaged groups. Their repeated and sustained engagement can have a positive impact on the professionalism, responsiveness, transparency, and level of knowledge of these bureaucratic actors, and in and of itself represent a form of institutional reform work.

54 Finally, international donors have an additional tool at their disposal: they can encourage the international NGOs and academic entities that they work with to increase their partnerships with Chinese civil society organisations. While some international organisations may be initially reluctant to embrace collaborative work with Chinese civil society groups, especially if they have a limited track record of doing so in the past, many groups that have expanded their work in this area have found it hugely rewarding. For funders, nudging international grantees in this direction will likely have a positive impact on the quality of project implementation as a whole.

Conclusion

55 Working on legal reform in China is a challenging business, the rewards of which are often evident only months or even years later. Only those with an appropriately modest view of how outsiders can be helpful should take part in what is, in the end, a domestic reform process in which Chinese citizens and the Chinese state will engage in dialogue and debate over what kind of legal system China should have. Working on legal reform in China is also fantastically difficult – it can be incredibly daunting to decide what the right strategies and who the "right" partners are. I myself have repeatedly gone against

all of the suggestions put forth in the above pages, sometimes to good effect, other times less so.

56 In fact, in writing this article, I have feared that putting forward arguments in favour of increased collaboration with advocacy-based civil society organisations would lead some readers to conclude that I believe collaboration with grassroots civil society organisations, in China or even in more fully open societies, is easy. It is not. Working with grassroots Chinese civil society organisations presents a number of difficulties, many of which are virtually absent when working with Chinese universities and government agencies. Those difficulties, some of which were noted above, include a lack of bureaucratic capacity; structural barriers to engagement with, for example, unregistered groups or groups registered as for-profit companies; and state repression against domestic activists who are perceived to have crossed the line.

57 None of these difficulties should be taken lightly. Yet, if Western actors can increase their outreach to nascent civil society groups, particularly those engaged in policy advocacy, they may be able, over a five to ten-year period, to significantly increase the number of domestic groups that are doing creative, innovative, and impactful rights-based advocacy work at the grassroots level. Given the crucial role that civil society groups have played in legal development and reform in other parts of the world, it may be the case that Western support for such groups may one day be seen as one of the most meaningful aspects of Western engagement with legal reform in China.

NOTES

1. In 2002, for example, a leading scholar of Chinese law pointed to the preference by foreign actors for government-affiliated partners. According to Alford, "The vast bulk of (foreign assistance)... has tended to flow through and be directed toward actors that are either a part of the state or closely affiliated therewith." William Alford, "The More Law, the More....?", Hope *et al.* (eds.), *How Far Across the River: Chinese Policy Reform at the Millennium*, Stanford (CA), Stanford University Press, 2003, p. 138. In 2002, for example, a leading scholar of Chinese law pointed to the preference by foreign actors for government-affiliated partners. According to Alford, "The vast bulk of (foreign assistance)... has tended to flow through and be directed toward actors that are either a part of the state or closely affiliated therewith." William Alford, "The More Law, the More....?", Hope *et al.* (eds.), *How Far Across the River: Chinese Policy Reform at the Millennium*, Stanford (CA), Stanford University Press, 2003, p. 138.

2. Ann Kent, "China and the International Human Rights Regime: A case study of multilateral monitoring, 1989-1994," *Human Rights Quarterly*, vol. 17, no. 1, 1995, pp. 1-47. For an excellent journalistic history of the Clinton Administration's approach to China, see James Mann, *About Face*, New York, Vintage Books, 1998, pp. 292-314.

3. Paul Gewirtz, "The US-China Rule of Law Initiative," *William and Mary Bill of Rights Journal*, vol. 11, 2003, p. 603.

4. Sophia Woodman, "Driving Without a Map: Implementing Legal Projects in China Aimed at Improving Human Rights," Bell and Coicaud, (eds.), *Ethics in Action: The ethical challenges of international human rights non-governmental organizations*, Cambridge University Press, 2007, p. 132.

5. For a summary of international donor engagement on the rule of law and civil society development in China, see Human Rights in China, "Funding the Rule of law and Civil Society," HRIC Issues Paper, *China Rights Forum*, no. 3, 2003.
6. Nancy Yuan, "To Serve the People: NGOs and the development of civil society in China," testimony to the Congressional-Executive Commission on China, 24 March 2003.
7. *Ibid*.
8. The United Kingdom's Department for International Development (DFID), for example, ended its decades-long bilateral aid program in China in 2011. "Charity Begins Abroad: Big developing countries are shaking up the world of aid," *The Economist*, 13 August 2011.The Canadian International Development Agency (CIDA) has announced that all of its bilateral aid work in China will end by March 2014; see Canadian International Development Agency China Overview, www.acdicida.gc.ca/china (consulted on 22 August 2012). Germany, once a leading foreign donor to China, also ended its bilateral aid to China in 2010; other donors have maintained their engagement in China, however. The US government remains an active donor in China, as does the European Union. For an overview of US government-funded programs in China, see Thomas Lum, "US Assistance Programs in China," Congressional Research Service, 11 May 2012. For an overview of European Union engagement with China, see *European Union China Strategy Paper 2007-2013*, https://eeas.europa.eu/archives/docs/china/csp/07_13_en.pdf (consulted on 22 August 2012).
9. See CECC 2011 Annual Report, p. 156. Getting a sense of the number of NGOs in China is difficult. Many, though by no means all, of the organisations that have been able to register as non-profit organisations under Chinese law are believed to be GONGOs, some of which may serve purposes other than service to a particular group or cause. Many NGOs choose either to register as for profit companies or not to register at all. For an excellent recent study of the strategic considerations that grassroots NGOs face when deciding whether to register, see Timothy Hildebrandt, "The Political Economy of Social Organization Registration in China," *China Quarterly*, no. 208, December 2011, pp. 970-989.
10. Yu Liu and Dingding Chen, "Why China Will Democratize," *The Washington Quarterly*, vol. 35, no. 1, Winter 2012, pp. 41-63, 53. After acknowledging some limited progress in electoral reform, the authors go on to note, "In many other areas, however, political reform not only has not progressed, it has in fact backslid."
11. In a recent interview, prominent legal scholar and public intellectual He Weifang noted the problem of lack of enforcement of laws in China, and tied that problem to shortcomings in the development of legal institutions during the reform era. As insufficiently independent courts, for example, failed to deliver fair verdicts, the public lost faith in those institutions. As a result, He notes, "the initiative for reform by institutions of power grew weaker." The interview with Prof He is available in translation online at: https://www.duihuahrjournal.org/2012/06/he-weifang-legal-reform-resolve-and.html (consulted on 22 August 2012).
12. Thomas E. Kellogg and Keith J. Hand, "The NPCSC: the Vanguard of China's Constitution?", *China Brief*, vol. 8, issue no. 2, February 2008. See also Thomas E. Kellogg, "The Death of Constitutional Litigation in China?", *China Brief*, April 2009.
13. Jiang Ping's remarks were translated and posted online at the Chinese Law Profs Blog. See also Chen Baocheng, "Recurring Dreams for the Rule of Law," *Caixin*, 11 June 2012.
14. Benjamin L. Liebman, "A Return to Populist Legality? Historical Legacies and Legal Reform," in Sebastian Heilmann and Elizabeth J. Perry (eds.) *Mao's Invisible Hand: The Political Foundations of Adaptive Governance in China*, Cambridge (MA), Harvard University Press, 2011, p. 178. See also Carl F. Minzner, "China's Turn Against Law," *American Journal of Comparative Law*, vol. 59, no. 4, 2011 p. 935-984; and Fu Hualing and Richard Cullen, "From Mediatory to Adjudicatory Justice: The Limits of Civil Justice Reform in China," in Woo and Gallagher (eds.), *Civil Dispute Resolution in Contemporary China*, Cambridge University Press, 2011.

15. Author interview.

16. Paul Gewirtz, "The U.S.-China Rule of Law Initiative," *art. cit.*

17. "Communist Party reformers and intellectuals were very close, for the Party was very tolerant during the 1980s. It was absolutely necessary for them to work together." Jean-Philippe Béja, "The changing aspects of civil society in China," in Zheng Yongnian and Joseph Fewsmith (eds.), *China's Opening Society – The Non-State Sector and Governance*; Abingdon, Routledge, 2008, p. 75.

18. Anthony J. Spires,"Organizational Homophily in International Grantmaking: US-Based Foundations and their Grantees in China," *Journal of Civil Society*, vol. 7, no. 3, September 2011, pp. 305-331.

19. *Ibid.*, p. 317. According to Spires, grants to academic, government, or GONGO entities constituted roughly 86% of overall grants made by US foundations in China from 2002-2009; the top ten recipients accounted for nearly 37% of all grants made. While certain aspects of Spires's study should be questioned – not all US donors operating in China report their grantmaking to the Foundation database, for example – his findings should nonetheless be taken seriously as a key indicator of the need for a more diversified approach by Western donors.

20. Andrew Jacobs, "Arrest in China Rattles Backers of Legal Rights," *The NewYork Times*, 9 August 2009.

21. Peter Ford, "Another AIDS Activist, Wan Yanhai, Flees China," *Christian Science Monitor*, 10 May 2010.

22. For an analysis of why the Chinese government has allowed truly non-governmental organisations to exist, and even to continue to proliferate, see Anthony J. Spires, "Contingent Symbiosis and Civil Society in an Authoritarian State: Understanding the Survival of China's Grassroots NGOs," *American Journal of Sociology*, vol. 117, no. 1, July 2011, pp. 1-45. Spires argues that many grassroots NGOs focus on meeting social needs, usually in ways that are consistent with local government interests (p. 12). According to Spires, many grassroots groups recognise the divergence of interests that exists at different levels of government, and attempt to exploit those divergent interests in their work to both achieve their own work-related goals and shelter themselves from political attack by those government agencies whose interests are implicated by the achievement of those goals (pp. 14-15).

23. For an excellent summary of China's progress on adopting a system for Open Government Information, see Jamie P. Horsley, *China Adopts First Nationwide Open Government Information Regulations*, www.law.yale.edu/documents/pdf/Intellectual_Life/Ch_China_Adopts_1st_OGI_Regula tions.pdf (consulted on 22 August 2012).

24. See, e.g., Minxin Pei, *China's Trapped Transition: The Limits of Developmental Autocracy*, Harvard University Press, 2008. Many Chinese grassroots activists also believe that Western rule of law efforts may focus too much on the state, and suggest a greater focus on bottom-up strategies. In an interview with a Western journalist soon after his arrival in New York, self-trained lawyer and rights activist Chen Guangcheng noted, "Westerners like to train local officials, to improve their understanding of the law. But when there's been an improvement, it's not because of improving the quality of officials; it's because ordinary people grasp the law and push. ... the decisive pressure for change is at the grassroots level." Ian Johnson, "'Pressure for Change is at the Grassroots': An Interview with Chen Guangcheng," *New York Review of Books Blog*, 26 June 2012.

25. This support is often considered controversial in a number of different countries. In Russia, for example, the state has often highlighted the fact that most human rights groups are supported by Western donors as a means of undercutting the credibility of those local groups. See Human Rights Watch, "Russia: Reject Proposed Changes to Rules on Foreign-Funded NGOs," 5 July 2012.

26. Spires, "Organizational Homophily," *art. cit.*

27. Thomas E. Kellogg, "Constitutionalism with Chinese Characteristics," *International Journal of Constitutional Law*, vol. 7, no. 2, 2009.
28. Huang Xuetao, Liu Xiaohu, and Liu Jiajia, *Zhongguo jinshenbing shouzhi zhidu falü fenxi baogao* (A Legal Analysis of China's Mental Health Treatment System), Equity and Justice Initiative, June 2011. On file with author. Equity and Justice Initiative is a Shenzhen-based NGO; see also Sharon LaFranerie, "Assertive Chinese Held in Mental Wards, *The New York Times*, 11 November 2010.
29. Thomas E. Kellogg, "Courageous Explorers? Education Litigation and Judicial Innovation in China," *The Harvard Human Rights Journal*, vol. 20, 2007, p. 141.
30. Keith J. Hand, "Using the Law for a Righteous Purpose: The Sun Zhigang Incident and Evolving Forms of Citizen Action in the People's Republic of China," *Columbia Journal of Transnational Law*, vol. 45, 2006-2007, p. 114.
31. See, e.g., Nancy Yuan, CECC testimony, supra note 6. In addition to direct support to civil society organisations, Yuan notes, "International organizations can help to improve the enabling environment for NGOs... this includes providing support for NGO law and improving the overall regulatory environment, as well as support for research and interaction with like-minded organizations."
32. The party-state's desire to use civil society law as a means of management and control has been noted from the beginning of the Chinese government's experimentation with a more explicitly "legal" approach, with the issuance of new regulations on social organisations in 1998. See, e.g., Tony Saich, "Negotiating the State: The Development of Social Organizations in China," *China Quarterly*, no. 161, 2000, p. 124.
33. For example, recent reforms to the registration system for NGOs in Guangdong Province in early 2012 were followed very soon thereafter by very serious pressure on various grassroots labour rights groups in Shenzhen, leading some to question the extent of the government's commitment to its own reforms. Fiona Tam, "Guangdong Shuts Down At Least Seven Labour NGOs," *South China Morning Post*, 27 July 2012; Bob Davis, "Labor NGOs in Guangdong Claim Repression," *China Realtime Report*, WSJ.com, 28 July 2012.
34. Nara Dillon, "Governing Civil Society: Adapting Revolutionary Methods to Serve Post-Communist Goals," in *Mao's Invisible Hand, op. cit.*, p. 151.
35. Timothy Hildebrandt, "Development and Division: the effect of transnational linkages and local politics on LGBT activism in China," *Journal of Contemporary China*, vol. 21, no. 77, 2012, p. 17. As Hildebrandt puts it, "Because gay organizations primarily exist as service providers, they operate, in essence, at the pleasure of the state. What happens when the state decides these services are no longer needed?"
36. The Chinese government is of course by no means the only government funder willing to put strong conditions in its support. For decades, the US government has placed severe restrictions on both domestic and international recipients of funding for women's reproductive health, limiting the ability of those groups to provide, or even in some cases discuss, abortion. Some of these restrictions were removed by the Obama administration in 2009.
37. Western actors need to be careful to tailor any capacity-building efforts that they offer to grassroots Chinese partners to the Chinese context and to local needs; failure to do so can be counterproductive or even outright harmful to the development of grassroots groups. For one account of the problems that can emerge when Western donors fail to sufficiently assess local partners' needs, see Anthony J. Spires, "Lessons From Abroad: Foreign Influences on China's Emerging Civil Society," *The China Journal*, no. 68, July 2012, pp. 125-146.
38. The increasing use of social mobilisation tactics by civil society activists has by no means gone unnoticed by the party-state, which has, in response, continued to increase its spending on so-called *weiwen*, or social stability tools, including the public security apparatus. François Godement *et al.*, *Control at the Grassroots: China's New Toolbox*, European Council on Foreign Relations China Analysis, June 2012.

39. Recent public protests against the construction of a copper smelting plant in the city of Shifang, Sichuan Province, serve as yet another illustration of the effectiveness of large-scale protest. Only after thousands of demonstrators took to the streets to protest the planned construction of the plant did the government back down and announce that the project had been shelved. Keith Bradsher, "Bolder Protests Against Pollution Win Project's Defeat in China," *The New York Times*, 4 July 2012. It is difficult to imagine the use of formal legal channels achieving a similar result.

40. Spires, "Organizational Homophily," *art. cit.*, p. 318. Spires notes that many Western donors consider it more "efficient" to give a small number of large grants rather than giving more small grants to a range of grassroots organisations.

41. Tianxia Gong, *Ting tamen de shengyin: Huadong NGO fangtan lü* (Hear Their Voices: East China NGO Conversation Record), Nanjing, November 2011. On file with author. Tianxia Gong is a Nanjing-based NGO.

42. Spires, "Lessons From Abroad," *art. cit.*

43. Jonathan Hecht, "Can Legal Reform Foster Respect for Human Rights in China?", Remarks to the Congressional-Executive Commission on China, 11 April 2002.

ABSTRACTS

Recent research has suggested that Western donors working in China have channelled most of their funds to government-affiliated entities, including state-affiliated think tanks, academic institutions, and government agencies, rather than to grassroots civil society organisations. A more state-centred approach may have made sense in the early years of the reform era, when few non-governmental organisations existed in China that could serve as effective partners to Western donors. Yet the rapid growth and development of the civil society sector in China over the last several years means that a number of new actors are doing very important work on a range of issues related to human rights and the rule of law. The author argues that Western funding for newly-formed grassroots civil society organisations is crucial to the ongoing development of Chinese civil society. In addition, because grassroots groups can often make fuller use of key advocacy tools, such as interest group mobilisation, media advocacy, and strategic litigation, they may in some cases be even more effective in pursuing progressive goals than academic or government-affiliated entities. Western donors active in China should take note of the rapidly-changing civil society landscape in China and make efforts to ensure that their funding strategies are in line with the evolving country context.

INDEX

Keywords: civil society, legal reform, rights-based advocacy, Western philanthropy

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Article

The Snow Dragon: China's Strategies in the Arctic

Olga Alexeeva and Frédéric Lasserre

ABSTRACTS

In recent years, several analyses and news media articles have predicted a resurgence of tensions in the Arctic over access to maritime space. Among the contenders involved in this potential struggle is China, whose ambitions in the region are suspected to hold a destabilising potential. Yet, as Beijing is developing its policy towards the region, it remains unclear whether it will contest the claims over maritime access of countries bordering the Arctic and forcibly take over parts of the region for resource extraction purposes.

INDEX

Keywords: Arctic, China, geopolitics, natural resources, Sino-Russian partnership, strategy

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Current Affairs

Is Xi Jinping the Reformist Leader China Needs?

Jean-Pierre Cabestan

ABSTRACTS

In autumn 2012, following the 18th Congress of the Chinese Communist Party (CCP), Xi Jinping is to succeed Hu Jintao as General Secretary of the Party and also, in all probability, as Chairman of the Central Military Commission, where he has been second-in-command since 2010. In March 2013, he is set to become President of the People's Republic of China. Born into the political elite, he enjoys a great deal of support in the Nomenklatura. Having governed several coastal provinces, the current Vice-President is thoroughly acquainted with the workings of Party and state. He also has support within the Army, where he spent a short time at the beginning of his career. In addition, in recent years, he has acquired significant international experience. Urbane and affable, Xi is appreciated for his consensual approach. Nonetheless, Xi is taking charge of the country at a particularly delicate time. China is having to adopt an alternative growth model whilst the government is struggling with powerful economic and regional feudalities. The Bo Xilai affair has highlighted the weakening of the central government, the corruption of the elites, and deep-rooted ideological differences within the Party machine that are damaging the political legitimacy of the regime and endangering its stability. As a result, Xi must not onlyreunify the Party leadership and machine but also establish his authority over all the country's civil and military institutions. His style and charisma will help him. But his success will also and above all depend on his ability to form a united coalition set on reform and capable of dismantling the privileges acquired by the regime's many bosses. The CCP needs a leader who is both strong and courageous. Is Xi such a man? Perhaps.

INDEX

Keywords: Xi Jinping

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Current Affairs

CEFC News Analysis

Ambiguous Rights: Land Reform and the Problem of Minor Property Rights Housing

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Current Affairs

China Analysis

Reforming China's Criminal Procedure Law

Hugo Winckler

Translation : Elizabet Laederich

Analysis by Hugo Winckler based on:
- Wang Jianxun, "The provisions of the reform of criminal procedural law legalising secret investigations are a step backwards," *Caijing wang*, 5 September 2011.[1]
- Chen Youxi, "The legalisation of secret investigations is an important violation of political integrity," *Zhongguo wangluo dianshitai* – CNTV *web site*, Opinion section, 27 November 2011.[2]
- Wu Zhehua, "Chen Weidong discusses reform of the criminal procedure law: Behind each article there is a story," *Zhongguoguangbo wang*, 8 March 2012.[3]
- Chen Guangzhong, "The provisions of the great reform of [China's] criminal procedure law represent progress," *Jinghua Shibao – Beijing Times*, 9 March 2012.[4]
- Xie Doudou, Wang Heyan, "The vicissitudes of the clause on secret detention," *Caixin wang*, 12 March 2012.[5]
- "A focus on the great reform of criminal procedure law: Important perspectives on the 'little constitution'," *Banyuetan wang*, 13 March 2012.[6]
- Li Xiangning and Xu Kai, "Criminal procedure law amendment passes amid controversy," *Caijing*, 25 March 2012.[7]
- Yao Dongxing, "Behind the scenes of the 'great reform': Four protagonists' narratives about ten years of power games," *Zhongguo jingji zhoukan – China Economic Weekly*, 27 March 2012.[8]

On 14 March 2012, the PRC adopted a draft amendment to its criminal procedure law (CPL), bringing an end to a process of reform begun in 2009. In that year, the National People's Congress created a task force to conduct a national survey on the proposed amendment. This committee interviewed legal professionals from all levels of the judicial system, and in doing so began a wide-ranging debate on legal reform. The revised law will enter into force on 1 January 2013, and the consultative process involved in its preparation shows that China's political leadership wants to be seen as listening to the people.

Over the last few years, the Chinese media have carried news of a series of highly publicised criminal cases. Yao Dongxing says that the public was allowed to express opinions on each of these cases and that people took an active interest in the legal proceedings. Wang Jianxun says the use of illegal methods to collect evidence led to several unfair convictions (*yuancuo anjian* 冤错案件). These miscarriages of justice caused a public outcry and a dramatic drop in confidence in the authorities. The crisis of confidence in the judicial system is frequently discussed in the Chinese media. The way the amendment to the CPL was presented to the public was therefore as important as its substance: reform was seen as a step towards regaining public confidence. This meant the Chinese press had an important role to play in explaining and justifying the new law. The framers of the law hoped to find a balance between giving concessions to the public and maintaining the judicial system as a tool of control over Chinese society.

A new discourse on criminal procedure law

The media coverage of the new law shows a shift in perspective on the role of criminal procedure law in China. The CPL is no longer presented as a tool of the authorities for bringing criminals to justice. Instead, the law is described as guaranteeing individuals' fundamental freedoms, but with a necessary trade-off between respect for those freedoms and the requirements of justice. This conception of the spirit of the CPL is very different from the Maoist interpretation. The transition took place in stages. The CPL was enacted in 1976 and amended for the first time in 1996. The 2012 reform will be its second revision. Yao Dongxing says the evolution of the CPL reflects increasing public awareness of fundamental individual freedoms. Including individual rights in the text made the CPL a "mini-constitution" (*xiaoxianfa* 小宪法). This is a real breakthrough, since judicial application of constitutional provisions remains limited and uncertain, and unlike a constitution, the CPL is fixed and is applied every day in all criminal cases at every level of the judicial system.

All of the authors say that by reaffirming the basic rights of the individual, the CPL sets a limit on the powers of government and a limit to the use of public power. The CPL is less concerned with investigating, pursuing, and judging criminals than with avoiding abuses of power. Its objective is to balance the administration's right to use legitimate force with the right of individuals to have their fundamental liberties respected. Since this idealised balance between protection and repression is in practice impossible, the debate has centred on the best type of reform. Commentators talking about the CPL are increasingly speaking up for telling the truth about the protection of liberties in the constitution, whether they genuinely support this sort of openness or not. Most of the articles written in support of the reform are intended to inform people about the amendment rather than to analyse it. The writers explain the role of the CPL in protecting the individual and try to inspire renewed confidence in the judicial system. The amended law is described as "a great reform," and its results are presented in such a way as to gain public support.

Under the CPL, however, the legal system is split in two. In some (mostly) serious criminal offences, such as organised crime and terrorism, civil liberty protections do not apply. Commentators disagree about the rationale for this dual-speed regime and are concerned about the scope of the cases in which civil liberties can be ignored.

The initial stages of debate

The first stage of the reform process began in 2009 and resulted in two draft proposals. From the very beginning, intellectuals –mainly lawyers from the universities and the courts – expressed their opinions and their fears about the draft proposals on the Internet and in the press. These commentators provide a legal perspective on the law's deficiencies and its risks of infringing on basic freedoms. They could have been even harsher in their criticism; they could have spoken out against the government or denounced the cases of abuse that were reported in the media. But the legal commentators stuck to discussing the proposals in terms of their legal merits and highlighting the risk of abuse of constitutional guarantees. Chen Youxi's article is a good example of this kind of criticism. He is disappointed that the law has retained provisions giving extraordinary powers of investigation to the administration. He says that this in effect legalises covert investigations and secret detention.

Covert investigation and secret detention

Some of the most controversial provisions in the law concern covert investigations (*mimi zhencha* 秘密侦察) and secret detention (*mimi juliu* 祕密拘留). These methods were both in place before the law was written, so they had precedent in practice and basis in law. The reform legislated for both covert investigation and secret detention, and so ensured their continued existence – but at the same time, it exposed these practices to public scrutiny. Covert investigation involves using technology to gather evidence (*jishu zhencha* 技术侦察).This includes bugging for sound, phone tapping, and intercepting private mail and email. The first draft of the amendment gave a very broad definition of the conditions under which this kind of surveillance would be allowed. The law states that covert investigation can be used "in any other serious offence affecting society" (*qita yanzhong weihai shehui de fanzui* 其他严重危害社会的犯罪). Chen Youxi points out that this provision means covert surveillance could potentially be used under any circumstances. Criticism made no difference, however: the final draft included the provision as it appeared in the first draft. The police can use technological surveillance at their discretion, which seriously compromises the individual's right to privacy.

The provisions on detention were equally contentious. Article 73 of the revised law, also known as the "extra-legal detention clause," says a suspect can be placed in a location other than his home without that location having to be officially designated as a detention centre. Article 83, also called the "secret arrest clause," says the detainee's relatives must be informed within 24 hours of the suspect's detention, unless informing them would impede the investigation or they cannot be located. The first draft of the revised law said Article 83 could be applied in cases of "criminal acts that threaten national security (*weihai guojia anquan fanzui* 危害国家安全犯罪,), terrorist activities (*kongbu huodong fanzui* 恐怖活动犯罪), risk of impeding the investigation (*keneng you'ai zhencha* 可能有碍侦查)." In this version, there were three cases in which secret arrests could be made. But in the final draft, a comma was deleted between "terrorist activities" and "risk of impeding the investigation."

Thus the three exceptions in which relatives did not have to be informed were reduced to two. The third exception, "risk of impeding the investigation," was neutralised and

became just a complement to the other two, as Xie Doudou and Wang Heyan say. Chen Guangzhong says that this revision meant the removal of the exception to informing a suspects' relatives within 24 hours where a risk of impeding an investigation was deemed to exist. Secret detention is therefore still allowed, but only within limits – it is only acceptable in cases that represent a threat to national security or in investigating acts of terrorism, and only when dictated by the requirements of the investigation. This example shows that the debate did lead to substantive modifications to the final draft, even if it did not get rid of all the controversial provisions.

The death penalty

The law's critics did not argue for removal of the death sentence, but there was considerable debate over the procedural safeguards needed in capital trials.The main issue was an amendment to the law that says that if an appeal to a death sentence is registered, the Supreme Court "may" hear the accused. The debate led to a change in the draft legislation that replaced "may" (*keyi* 可以) with "should" (*yingdang* 应当).This gives people who have been sentenced to death one last chance to explain the circumstances of their case or to plead their innocence.The change illustrates the negotiation process that went on during the drafting of the amendment. Wu Zhehua says the Supreme People's Court was not initially in favour of the provision, but the length of the debate and the number of people arguing for the change made them reconsider, and the amendment was adopted.

Power games between state organs

Throughout the discussion process and in the presentation of the final draft of the law, the authorities showed a clear desire to communicate and educate and a genuine will to advance human rights. Public opinion was taken into account through the interviews conducted by the working committee with members of the legal profession. Participation in the actual reform discussions was limited mainly to national and local experts, however, and the general public was not consulted. As Li Xiangning and Xu Kai wrote in *Caijing* and Yao Dongxing said in *Zhongguo jingji zhoukan*, the bulk of the legislative process was focused on power games between different state organs: the Supreme Court, the legislature, the Ministry of Public Security, the public prosecutors, the Ministry of Justice, and other branches of government. The official narrative of reform emphasised public participation, but the real debate took place mostly at the state level. However, the reform committee did at least involve stakeholders in the judicial system in the formulation of reform.

The Ministry of Public Security was quick to get involved in the debate, issuing a series of proposals that were mainly aimed at strengthening the powers of the police. Not all of these proposals were adopted. Li Xiangning and Xu Kai say that no state organ managed to take complete control of the process, and the final version was a compromise between the viewpoints of the legislature (*lifa bumen* 立法部门), the judiciary, and the police (*sifa zhifa bumen* 司法执法部门). Their dialogue showed they recognised "the logic of negotiation" (*tanpan de luoji* 谈判的逻辑). Debate did take place among various public actors, but few of them were outside state organs; experts were really only consulted in an advisory capacity.

The conclusion of the reform process saw the end of the debate. Critical articles were published only while the law was still under discussion. Articles published after the adoption of the law ignored any remaining misgivings, and instead mostly highlighted the advances made in protecting fundamental freedoms.

NOTES

1. Wang Jianxun is associate professor of law at China University of Political Science and Law (CUPL) in Beijing.

2. Chen Youxi is a well-known lawyer famous for his defence of Li Zhuang, a lawyer from the city of Chongqing who faced criminal charges while defending a local mafia boss. For more details about this affair, see Jean-Pierre Cabestan, "The implication of the Chongqing Model for the reform of China's legal system," *China Analysis,* November 2011.

3. Chen Weidong is professor of law at Renmin University of China (RUC).

4. Chen Guangzhong is a law professor who is considered to be one of the founding fathers of modern criminal procedure law in China.

5. Xie Doudou and Wang Heyan are both journalists for *Caixin*.

6. This article contains a series of opinions from people who participated in the reform.

7. Li Xiangning and Xu Kai are both journalists for *Caijing*

8. Yao Dongxing is a journalist at *Zhongguo jingji zhoukan*.

Local governments under pressure: The commodification of stability maintenance

Jérôme Doyon

Translation : Elizabet Laederich

Analysis by Jérôme Doyon based on:
- Xu Kai and Li Wei'ao, "The stability maintaining machine," Caijing, 6 June 2011.[1]
- Zhong Weijun, "The 'zero-incident' logic of local governments in maintaining stability: An analytical framework," Zhejiang shehui kexue – Zhejiang social sciences, no. 9, September 2011.[2]
- Gao Jun, "The trap of maintaining stability and how to avoid it," Lilun daokan, no. 11, 2011.[3]
- Xia Nan, "The alienation of weiwen," Caijing, 12 October 2011.[4]
- Zhang Qianfan, "The origin and disruption of the system for petitioning the higher authorities," Tansuo yu zhengming – Exploration and free views, 10 May 2012.[5]

In 1994, the Chinese government carried out a tax reform that limited the revenues of local governments and made them dependent for funding on central authorities. Since then, local governments have been caught between the people, who want more social policies that local authorities cannot afford, and the central government, which is focused on maintaining social stability. Xu Kai, Li Wei'ao, and Xi Nan say that social stability has become the main priority of local governments. So, for example, in Yun'an district in the province of Guangdong, out of 6,700 people on the public authorities' payroll, 1,800 have jobs related to maintaining stability. The success of local administrations is evaluated largely on their ability to maintain social stability. In 2009, "The temporary provision on the enforcement of the responsibilities of Party leaders and the State" (*guanyu shixing dangzheng lingdao ganbu wenze de zanxing guiding* 关于实行党政领导干部问责的暂行规定) reaffirmed local government's responsibility for incidents that threaten stability, with particular reference to riots and other mass demonstrations. These articles show that this method of evaluation puts pressure on local governments. The central authorities have said that they want to develop the

system of "letters and visits" (*xinfang* 信访), as reaffirmed in 2005's "Regulations on letters and visits" (*xinfang tiaoli* 信访条例).This administrative practice, which exists parallel to the judiciary system, allows citizens to appeal local decisions by presenting a petition to central authorities. But evaluating local administrations on the basis of social stability maintenance undermines the system of letters and visits.

In order to appear to be making progress on social stability, local governments have adopted a logic of "zero incidents" (*buchushi luoji* 不出事逻辑).[6] Whatever the cost, they have to make sure they present an image of stability – even at the risk of not addressing the root causes of various problems. Zhong Weijun and Gao Jun say this logic forces the local authorities to deal with problems in a very superficial way.They spend more time trying to stop the authorities in charge of their evaluation from finding out about problems than they do on actually resolving them. The seriousness of a problem is judged only in terms of how higher authorities will perceive it. Zhong says this has contributed to a deterioration of relations between local authorities and citizens, as the relationship between the two has moved from one of service to one of "seizure" (*juequ* 攫取).

Under the system of letters and visits, local governments are supposed to contact and meet with petitioners (*jiefang* 接访). Xu Kai and Li Wei'ao show how, in practice, petitioners are obstructed (*jiefang*) to keep local government evaluations artificially high. Local authorities use several different tactics to "buy peace" (*huaqian mai ping'an* 花钱买平安).

Petitioners' names are deleted from the official registers (*xiaohao* 销号). These lists of complainants are kept by the central government, and the evaluation of local authorities is partly based on them. Because of corruption and complicity between the local authorities and their direct superiors, the names of many petitioners are either not registered at all or are wiped off official registers in return for kickbacks. The *Caijing* journalists say that this turns the political problem of government evaluation into an economic cost.

Another option for local authorities is to arrest petitioners. This can be done locally through the "centres for maintaining stability" (*weiwen ban* 维稳办) at every administrative level. Local governments set up watch lists of likely nuisances, especially at times of important local festivals or around the annual plenary sessions of "the two assemblies" (the National People's Congress and the Chinese People's Political Consultative Conference) in Beijing. Gao Jun says that the political fallout from an incident on one of these occasions would be extremely serious. Xia Nan says local authorities have been known to issue fines or to illegally detain petitioners, sending them to work camps or psychiatric hospitals, in order to keep them from appealing to higher authorities. To encourage administrative staff to take action in this way, local governments have established a system of bonuses. Xu Kai and Li Wei'ao say functionaries who resolved an "incident" at the village level earned bonuses of 50 or 100 *yuan* in 2011, and the reward is even greater for people further up the administrative ladder. Xu and Li say that the budget for "bonuses" in Guangdong's Yun'an District in 2010 was 20,000 *yuan* – extremely cost-effective compared with the potential political and economic cost of even one petitioner lodging a successful complaint in Beijing.

Local authorities can also carry out judgements on petitioners in Beijing through liaison offices (*zhujing banshichu* 驻京办事处). The president of a local court told the

Caijing journalists that all young male judges are obliged to work in the Beijing liaison office of their locality, and that their main job is to be present at the High Court so as to keep petitioners from lodging complaints. Serious corruption is endemic in these liaison offices, since their main objective is to ingratiate themselves with the central authorities to win benefits for the locality they represent. Zhang Qianfan says that a corruption scandal in 2009 caused the central authorities to close many of these offices. Xu and Li say that in mid-2011, 625 liaison offices were closed, including 50 offices of provinces or special economic zones and 296 city offices.

But Beijing's decision to close the liaison offices only forced local governments to find another way to obstruct petitioners. Zhang says that even if the government shuts down one way of blocking petitioners, good evaluations for local authorities still depend on a lack of complaints reaching the central government. Local authorities therefore still need to find ways to prevent petitions from being lodged. One way to do this is to hire private companies to arrest the petitioners. As of mid-2011, the Beijing security company Anyuanding had signed contracts with 19 provinces to turn away, arrest, or detain petitioners in illegal detention centres, or black jails (*hei jianyu* 黑监狱). Zhang sees it as the height of cynicism that the effect of closing liaison offices was to enable these sordid enterprises to get rich.

Between wiping names from official registers, issuing bonuses to local staff for resolving "incidents," and hiring private enterprises to stop petitioners, a national market for stability maintenance is opening up. Zhang and the *Caijing* journalists see this market as the natural consequence of the current structure of stability maintenance and the method used to evaluate local governments. Zhang points out some positive developments, such as the closure of the liaison offices in Beijing and some innovations in the letters and visits system in Shenyang, Liaoning Province, where petitioners' cases are publicly heard in front of experts and deputies of the local People's Congress and Political Consultative Conference. But Zhang says that measures like the simple reform of the rules surrounding letters and visits cannot resolve these problems, which have their roots in the power relations of the petitioning system. As illustrated by the use of private enterprises to obstruct petitioners, local authorities can always just pay lip service to any new orders (*yangfeng yinwei* 阳奉阴违). Zhang criticises the letters and visits system as intrinsically unsuited to resolving local problems. He says that even if it were the concern of the central authorities to resolve local problems, they would need material and human resources that they simply do not have. As it stands, the system is structured so that citizens voice their problems and then go home – as if simply articulating them will somehow make them go away.

The system costs local governments a great deal in terms of both legitimacy and financial resources. Xia Nan says it is a vicious cycle that serves to reinforce the dual pressure on local governments from the people and from central authorities. The "mafiasation" (*heisehua* 黑色化) of the practices associated with maintaining social stability increases tensions between the government and the people, while the cost of these practices further financially weakens localities, and thus can affect local governments' evaluation by the central authorities. Xia says that in the long term, the most serious concern is the deterioration of the authorities' relations with the people, as well as relations among the people. He points to the toxic climate these methods create, giving the example of an old man denounced by the employees of a photocopy shop in Shanxi when they discovered he was preparing a petition file. After ten years,

the current policy of maintaining stability has resulted in untenable fiscal practices and inconsistent results.

NOTES

1. Xu Kai and Li Wei'ao are journalists at *Caijing*.

2. Zhong Weijun is an associate professor at the School of Political Science and Public Management at the Zheijiang Institute of Technology.

3. Gao Jun is a professor at the School of Humanities and Social Sciences at Jiangsu Teachers University of Technology.

4. Xia Nan is a lawyer in the Beijing law firm, Hua Yi.

5. Zhang Qianfan is a professor at Peking University Law School.

6. Zhong Weijun attributes this concept to He Xuefeng and Liu Yue. See He Xuefeng and Liu Yue, "The 'zero-incident' logic in local management," *Xueshu yanjiu – Academic research*, no. 6, June 2010.

Aurore Merle (dir.)

Book Reviews

Isabelle Thireau and Hua Linshan, *Les ruses de la démocratie. Protester en Chine* (Ruses of democracy: Protest in China)

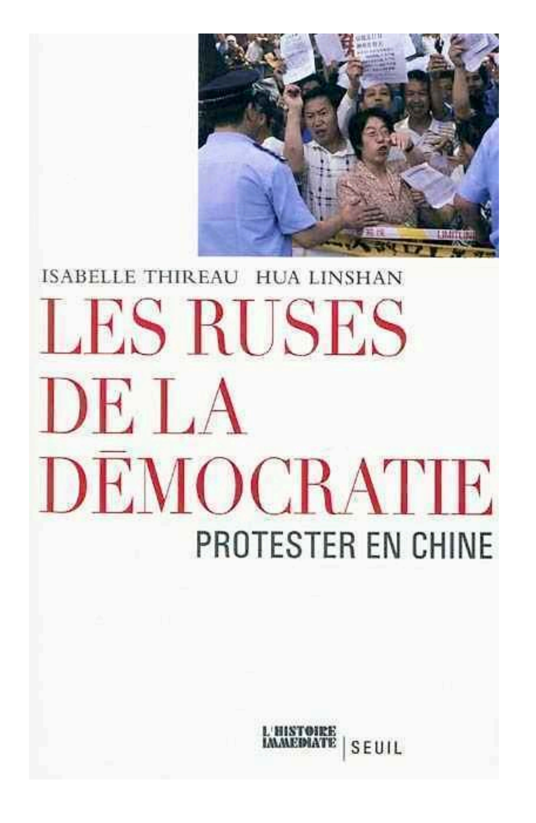
Paris, Seuil, L'Histoire immédiate, 2010, 449pp.

Chloé Froissart

Translation : N. Jayaram

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1 This book is presented as the exploration of a paradox: how one institution – the State Bureau for Letters and Visits – that helped the Communist Party consolidate its power has transformed itself into a space for contestation, how complaint has come to mean protest, and furthermore, how the image of the victim has been transmuted into that of actor.



2 Since imperial times, there has been an institution for aggrieved citizens to address their complaints to the authorities orally or in writing. Whereas the authorities have always considered this device less a means of facilitating justiciability than of tracking "the feelings of those below" and of keeping abreast of social and administrative dysfunction at the local level so as to better govern and solidify their power, petitioners have gradually sought to redefine how social justice must be ensured and to pressure

the state to assume its role of guarantor in this regard. The authors thus posit that complaint has become a form of action: it is not a matter of putting oneself at the mercy of superior entities but of trying to persuade them and apply pressure to them by reaffirming and possibly recreating the norms that ought to prevail in society.

3 The book sets out to analyse the transformation of this space for expression by marshalling the historical sociology of norms as well as rigorous linguistic analyses of statements in order to clarify who is addressing whom, saying what, and how. Sociologist Isabelle Thireau and historian Hua Linshan draw on an impressive body of 600 letters lodged with the offices for letters and visits at various levels of China's administrative hierarchy and in different provinces, sources that are difficult to access as they have long remained confidential. They have also consulted official monographs, interviewed 30-odd migrants in Shenzhen and Guangzhou, and reviewed the specialised press as well as the works of Chinese and foreign scholars. The authors also buttress their reflections with ethnographic descriptions based on observations in offices of letters and visits. Such reflections, while anchoring the argumentation in lived social reality, offer welcome respite in a text that is sometimes arduously abstract. But this book also purports to be a work of political sociology to the extent that proceeding from an analysis of the way in which petitioners address the state, *in fine* it seeks to highlight the evolution of relations between the rulers and the ruled.

4 The authors go over a 56-year period – from 1951, when the Communist Party revived the practice, until 2007 – and show how the relationship has gradually been remoulded to resemble an inversion of the domination position, as hinted in the book's title: "ruses of democracy." Although the authors stress that the petitioners never completely took up the authorities' injunctions, they show how the institution helped the Party orchestrate the "tales of bitterness" that lay behind the 1950s agrarian reforms; only those with a good class background were able to pronounce themselves in the name of the ethical principles and policies underlying class struggle and to denounce those belonging to social categories targeted for elimination. In other words, the authors show how manipulation of petitioners' stands led to physical violence, helped to redefine the social and political order, and strengthened the Party's authority. During the 1950s, even though the Party would have wished to use the administration of letters and visits as "a springboard to mass movements through the decades," in reality the institution "did not constitute a major tool of class struggle" (pp. 128-129), the authors show. While this function was indeed present, the analysis of petitions reveals that what concerned the petitioners most consistently was, above all, local cadres' abuse of power, and that the formulation of these denunciations did not necessarily follow the ideological guidelines of the era. Similarly, during the 1980s, while the new leadership sought to use this institution to orchestrate the campaign to rehabilitate "rightists," the petitions often referred to events before the Cultural Revolution (1966-76), not stopping at describing the political manipulations they were subject to but also including "recurring actions, ideological contradictions, and structural problems" (p. 199). Such expression has always overshot the limits the Party sought to impose. At the end of the book, the authors say that recourse to the office of letters and visits constitutes "one initiative among many in a long and difficult collective action during which individuals combine different resources to express their sense of injustice and obtain a response" (p. 250). All social classes are taking advantage of this institution; the authors stress that contrary to widely held belief, not only the lower classes but also investors, administrators, political cadres, and property owners

are also using it. Grievances fall into two main categories: "problems left over from history" and "current problems," mainly seizure of agricultural land, urban demolition and expropriation, the functioning of judicial institutions, enterprise restructuring and labour rights, and environmental problems. The authors conclude that the way in which petitions use this procedure "directly contributes to state formation" (p. 416) by forcing the party to reform the administration of letters and visits through investing it with greater transparency and efficiency; in other words, by encouraging the invention of "new procedures and new uses" and by directly influencing political action, pressuring the authorities to adopt policies better geared to popular expectations.

5 Evolution of the space for expression, with the major turning point having come in the early 1980s, is dealt with in the book's second part and may be summarised as follows: the end of restrictions with regard to who may or may not avail of this institution following the abolition of class struggle, the appearance of new normative references such as laws to which petitioners refer more and more precisely, and expansion of the previously highly restricted and codified space for expression thanks to the emergence of conveniences encouraged by the Party, such as telephone hotlines or newspaper columns devoted to petitions, as well as the new role played by the media in relaying petitioners' demands. In other words, the authors show how this initially private and confidential space became a semi-public one, gradually emerging as the epicentre of collective action. In line with the work of Kevin O'Brien and Li Lianjiang, they stress that there has been an increase in collective visits and in the number of participants, and politicisation of rising demands made to higher level administrations even as "the authorities are addressed in a more direct manner than earlier and on an unprecedented level of equality," with external pressure also being brought to bear on the authorities.

6 The words "ruses of democracy" in the title refers to the author's thesis that quite beyond individual petitions, one factor at work historically is an underlying "process of democratic invention"(p. 434). Petitioners have now shed the informer or accuser status assigned to them in the 1950s, albeit without recognition of their victimhood. Far from being passive, the petitioners express their capacity to affirm the moral and political bearings to which they ask leaders to conform. Forms of democratic practice are indeed emerging in China in the guise of surveillance or prevention, challenging a judgment, and in sum "organising defiance," which, the authors stress – taking the Pierre Rosenvallon line of thinking – only strengthens the current political leadership's legitimacy.[1]The book's major strength, which qualifies it as a milestone in sociological studies on China, is its detailed analysis of the emergence, structuring, and dynamics of this new political space. But it would be advisable to exercise great caution in applying the term democracy to an authoritarian system, and to its ins and outs, especially when it comes to the administration of letters and visits, at the risk of losing one's bearings. It concerns the primary meaning of the word democracy, which immediately leads to a contradictory debate. The authors ably show that petitioners cannot confront the authorities to whom they look for resolution of their problem. The term "democracy" evokes the concept of people's power, especially the power to decide, which still remains indisputably and unchallenged in the party's hands. Whatever its modalities, petitioning is always an approach to a superior entity, which even in the face of popular pressure retains its discretionary power on both the resolution of problems petitioners bring to the bureau and on determining the parameters for this "democratic participation," which has officially become a priority since the 17th Party

Congress. It shows the way in which the Party has resumed charge of this bureau, notably by systematically sending petitions addressed to the central government down to local administrations that had already failed to find a solution, and looking on as local authorities take recourse through arrests and the setting up of "black jails." Again, as pointed out in Yu Jianrong's famous report (2005) quoted at length by the authors, nothing is farther from this bureau than the concept of justiciability: most petitions fail, and many petitioners have spent lifetimes, some since the 1980s, lost in the Kafkaesque maze of this bureau and its basically perverse functioning, as brought out dramatically in Zhao Liang's documentary *Petition* (Shangfang). For the Party, it is all about channelling popular discontent while using individual petitions to put in place new governance techniques geared to maintaining social stability. What stood out in Yu's report was its attempt at clarification by proposing that petitions be handled by courts so that the Bureau of Letters and Visits could concentrate entirely on institutionalised "democratic participation." From an ethical standpoint, it is advisable to beware of the contamination of concepts used by Chinese authorities, because once a normative definition of the term "democracy" is abandoned, the Party will have won out with its own claim of pursuing a democratic path.

7 The authors' perspective thus appears a trifle idealistic, and their conclusion could have considered the ambiguity in the dynamics of interactions between state authorities and social actors instead of emphasising the petitioners' power of complaint: of course the scope for complaints has been expanded, but that is mainly due to openings granted by the authorities themselves, especially through the rehabilitation policy adopted in the early 1980s. The book also tends to idealise the role of letters and visits offices in formulating new public policies to meet popular aspirations – notably with regard to changes in the central government policies towards migrants early in the last decade – and generally in state building. Other tools and actors – media, social organisations, scholars, and lawyers – contribute to this process, the agents of change being necessarily numerous and in mutual interaction.

8 It should be stressed that this is not an attempt to deny that political space could be opening up, with the specific purpose of articulating around negotiation rather than conflict. Nor is it being suggested that such mobilisation would have no political impact in terms of constructing – more precisely rationalising – the state. But what the authors fail to mention is that this mobilisation forms an integral part of the Chinese regime's functioning, and that the resultant state rationalisation would help the party entrench itself in power – in other words, help explain the authoritarian regime's adaptability and durability. Recall the work of Olivier Dabène, Vincent Geisser, and Gilles Massardier, the title of whose book *Democratic authoritarianisms and authoritarian democracies in the twenty-first century*[2] underlines this tendency towards hybridisation of political regimes that characterise the current era. This has less to do with noting the disappearance of ontological difference between authoritarianism and democracy than with promoting a dialectical approach that would do justice to the complexity of regimes by highlighting their own contradictions and gaps in order to show how forms of democracy and authoritarianism are related within the same political regime.

9 Has the paradox been resolved? Not really: this institution continues to serve the purpose Mao assigned it at its creation in 1951 by remaining "a means of strengthening the people's links with the Party and with the people's government," and this book could also have been subtitled "ruses of bureaucracy." It is rightly this paradox that lies

at the heart of the authoritarian Chinese regime's functioning, and which the authors fail to bring out sufficiently in choosing to highlight a sociological viewpoint and avoid reflection on the political regime.

NOTES

1. Pierre Rosenvallon, La contre-démocratie. La politique à l'âge de la défiance, Paris, Seuil, Points essais, 2006 (Counter-democracy: Politics in an age of distrust, New York, Cambridge University Press, 2008).

2. Olivier Dabène, Vincent Geisser and Gilles Massardier, Autoritarismes démocratiques et démocraties autoritaires au XXI[e], Paris, La Découverte, 2008.

AUTHORS

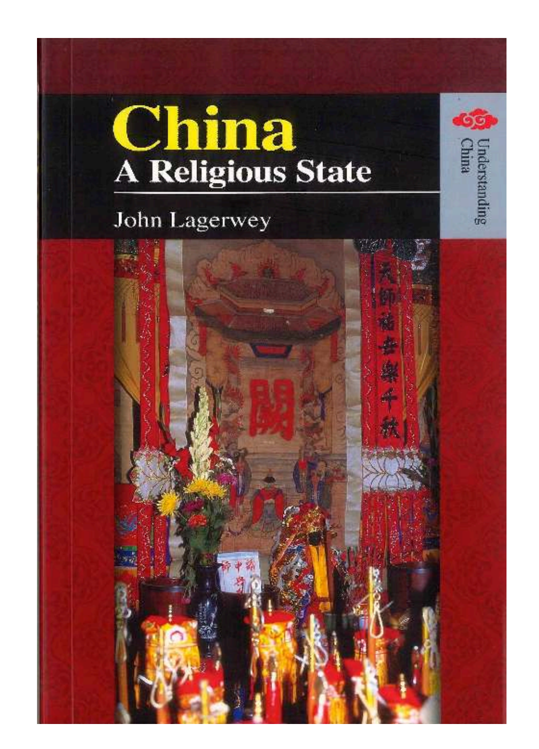
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John Lagerwey, *China: A Religious State*

Hong Kong, University of Hong Kong Press, 2010, 238 pp.

David Palmer



1 *China: A Religious State* is the published version of a series of lectures given by John Lagerwey at the Chinese University of Hong Kong and the University of Hong Kong around 2008, offering a comprehensive view of the religious dimensions of Chinese state and society throughout its long history as well as in the deep structures of traditional local communities.

2 The book is immensely rich in its breadth and in the profusion of historical and ethnographic details offered by one of the very few scholars in the world with a virtually unsurpassed mastery of both classical sinological scholarship on Chinese (and Daoist) religious history as well as the ethnography of local ritual and society. Indeed, Lagerwey, who has just retired as the holder of the prestigious Chair of Daoism and Chinese Religions at the École Pratique des Hautes Études, and is now a Professor at the Chinese University of Hong Kong, has, as an early collaborator of the renowned Daoist scholar Kristofer Schipper, conducted authoritative studies on the Daoist Canon as well as participant observation of Daoist priests in Taiwan and Fujian. He later initiated a wave of local ethnographies and folklore studies in Southeast China, publishing more than 30 volumes of field reports and oral histories by local scholars he has trained and nurtured. Most recently, he has been editing a monumental history of

Chinese religion, with substantial contributions by virtually all of the world's leading scholars in the field.

3 *China: A Religious State* draws on this massive body of research; though short, the book is so replete with historical, ritual, and ethnographic detail that the reader may easily get lost in the thick jungle of Chinese religion, losing sight of the big picture. Such is, perhaps, one of the objectives of the book – to show that not only is the conventional intellectual view of China (whether Chinese or Western) of a civilisation in which religion is but a marginal dimension completely false, but that this religious dimension is so astonishingly rich and diverse that it cannot be reduced to any simple statement or formulation. Reading *China: A Religious State*, we realise that if materials on China had been available to Sir James George Frazer over a century ago, he could easily have doubled the length of his *Golden Bough*!

4 It would be impossible to summarise this detail in a brief review; I will limit myself to raising some questions or musings that arose to me after reading each chapter of the book.

5 The Introduction argues that "China is a religious state and Chinese society is a religious society;" China is a sacred space traditionally conceived as a "continent of spirits" (*shenzhou* 神州), a notion that should not be treated as a "mere" metaphor. It is now known that the image of a rational, non-religious Chinese civilisation derives from the Jesuit project of marrying Christianity with a secularised Confucianism – but Lagerwey focuses here on the Confucians' alliance with the Jesuits and their participation in their deception. He argues that modernity began when symbol and reality were separated, when the Protestant reformation asserted that the sacraments are "nothing but symbols" or "mere metaphor," devoid of intrinsic spiritual power. Lagerwey reminds us that the idea of ritual as "nothing but" symbolism dates back to Xunzi and Confucius, who advocated that ritual should be practiced to regulate the emotions, "as if" the spirits of the ancestors were present, but not truly believing so (p. 3). When the Jesuits arrived in the mid sixteenth century, Ming neo-Confucianism was in full swing and "the neo-Confucian elite had its own project, namely, to transform society by ridding it of the rituals of shamans, Buddhists, and Daoists, and putting Confucian rituals in their place" (p. 3). Thus, "neo-Confucian rationalism" was ready to "make a deal" with "Thomist rationalism" as part of its project of replacing China's gods with neo-Confucian ancestor worship. Lagerwey thus argues that the Jesuit-Confucian encounter was the meeting of two distinct and unwitting secularising tendencies, one of which, the Chinese, had been advancing for 2,000 years.

6 This begs the question, however, of why, after 2,000 years, the Confucian rationalising project had made so little progress by the time the Jesuits arrived – we now know that China, in late imperial times, was an intensely religious society, as this book demonstrates. Perhaps the answer lies in the fact that, while Confucian learning urged the gentleman to participate in rituals *as if* the ancestors or gods were present, they did not object to the common people *believing* that the ancestors and spirits are *really* present, and regulating their behaviour accordingly – *yi shendao shejiao*以神道設教. Thus, under Chinese orthopraxy, rituals should be maintained, and what is important is to participate, with the freedom to consider them either magically efficacious or "merely" symbolic and socially functional. Thus, while the secularising tendency is always present in Confucianism, the secularising *rupture* is always absent. Hence the modern perplexity about whether or not Confucianism is or is not religious/a religion.

The Western experience, however, has been one of radical ruptures – first, as Lagerwey notes, differences of understanding and belief about the possibility or not of the "transubstantiation" of the bread and wine could not be tolerated among the participants of the same ritual service, so that separate and warring Catholic and Protestant churches were needed – and later, again, as atheists and religious believers could not participate together in the same rituals, entirely distinct and opposed institutions and ideologies had to be created for the "religious" and the "non-religious." The apparent affinities between Jesuit and Confucian rationalism thus mask a substantive difference, which hinges on the Confucian acceptance of ambiguity, ambivalence, and indeterminacy in the name of social harmony.

7 Chapter One, "A Brief History of the Pantheon: Ancestors and Gods in State and Local Religion and Politics," presents a rapid overview, from pre-imperial to late imperial times, of state-religion relations in China. One focus is on the Chinese rulers' deity worship, noting how, with each new regime or dynasty, or sometimes with the accession of a new emperor, the ruler made significant modifications to the religious system, often sacrificing to different deities and supporting some deities and sects while suppressing others, who may have been favoured by the previous ruler. As Lagerwey argues, in China, "state=church" (p. 49), and "from the Shang ancestors to the Longmen sect, this is a constant feature in Chinese religious history: it is dominated by political decisions" (p. 54).

8 This fact raises several questions related to the modalities of the religious behaviour of the imperial throne. For instance, an essential component of the Emperor's assertion of territorial sovereignty was the worship, by the Emperor or his officials, of local or regional territorial deities – such as the City Gods of each town, or the gods of the Five Marchmounts (*wuyue*五岳). But how can imperial sovereignty be signified through the supreme emperor or his agents worshipping lower, more local deities? Who, of the emperor or the deity, is subordinating himself to whom? And why did the imperial regime so often change the "supreme" god that it worshipped – from Di 帝 to Tian 天, Taiyi 太一, Laozi 老子, Haotian Shangdi 浩天上帝, Xuantian Shangdi 玄天上帝, and so on? If the emperor, as the supreme power on earth, needed to worship his counterpart in Heaven, why change his name and cult? Perhaps we need here to reconsider our concept of the "worship" and "cult" of a god, possibly derived from the notion of the Abrahamic God who demands absolute submission, and for whom worship is the embodied expression of submission. Perhaps something more subtle and ambiguous is at play in the Chinese case – sacrifice being an instance of "gifting" and "hosting" in an anthropological sense, the ritual formation and renewal of an alliance in which *both* parties possess, maintain, and exchange power (see forthcoming work by Adam Chau). A Chinese deity is a nexus of social relations, a node of spiritual powers related to place, and a materialised body of narratives and memories – all linked to at least one organised interest group in society. Thus, the emperor's sacrifice to a deity would be the ritual construction and maintenance of a political alliance with this network of powers. Imperial sovereignty is thus maintained by keeping itself at the centre of a vast system of localised networks of powers. With a new dynasty or regime, new networks of power need to be established – this might partially involve retaining portions of the old regime's network, but also partially involve creating a new one. Which deities and sects would rise or fall in this process would be the result of the give and take between powers and interests. While we tend to conceive of the political game as a negotiation

between humans, in China it might be useful to see the role of deities, rituals, and temples as mediating objects in the political game.

9 Such a perspective might give us insights on "Daoist Ritual in Social and Historical Perspective," which is the subject of Chapter Two. Discussing the Daoist Heavenly Masters tradition 天師道, Lagerwey stresses the oft-noted bureaucratic organisation of the pantheon and the role of the Daoist priest as an official mandated to send forms and petitions on behalf of the people to the relevant offices of the celestial government. Daoist ritual mediates a celestial world of official documents, record-keeping, and lawsuits, combined with a concern with healing and immortality. With the revelation of the Lingbao 靈寶 Canon around AD 400, Mahayana Buddhist concerns about karma, cosmic retribution, and universal salvation are integrated into Daoist ritual, turning it into a "universal religion" (p. 70). Through further changes and transformations, we see Daoist ritual evolving in many directions, ranging from refined court ceremonies to integration with the local deities and spirit-mediums of village religion. There we see the dual role of the Daoist priest, as minister (*chen* 臣) in the sublimated court of Dao, and as general (*jiang* 將) vis-à-vis the local spirits and demons – a complementary distinction played out in the civil-martial (*wen/wu* 文武) structure of much village ritual today. Local spirits may be either absorbed into the Daoist hierarchy as lower-ranked minions or fought as unruly, bloodthirsty demons. The role of the Daoist ritual institution in negotiating relationships, alliances, or conflicts between local and universal deities and forces is clear. It thus played an indispensable role both for local communities and for the imperial throne in their formation of religio-political alliances, providing a common but multivocal ritual and symbolic language for working through their relationships.

10 In chapters Three and Four, "Festivals in Southeastern China" and "On the Rational Character of Chinese Religion," we are treated to a cornucopia of ethnographic titbits drawn from dozens of villages, towns, county seats, and mountain temples. Faced with the bewildering diversity of material, Lagerwey concludes that "The first observation to be made of this material concerns its richness, the second its unity."

11 How can we make sense of both the unity and diversity of these local festivals? A few thoughts come to my mind: on the one hand, all of these popular customs are rooted in the same Chinese cosmology and "demonological paradigm," to use Barend J. ter Haar's formulation: the festivals have both a life-affirming, life-generating function and an exorcistic or prophylactic function of protecting the community from ghosts and demons, which are associated with the dangerous world outside the community. Local deities have an intimate connection to the demonic realm: sometimes former demons themselves, they know how to fight the evil forces. Hence, they make good allies for communities in search of a protector. But, lest they remain too close to the wild and demonic ways, they also need to be firmly anchored to the realm of order and civilisation – hence the attempts of both Daoism and the imperial state to integrate them into their pantheons and ritual systems.

12 I have suggested that the "cult" of a Chinese deity should be seen as a reciprocal, gifting alliance between a human group and the deity, in which both parties are seen as having some power over the other. On the side of the human groups, we see, as Lagerwey points out, the sophisticated methods by which, through the festivals of the deities, they organise their own alliances between social groups – be it the different lineages of a village, the different villages of an irrigation system, the different streets

of a town, or even the different segments of a street. The specific setup – which groups will take turns to organise the procession, or the route and order of the procession, or the amount each group contributes to the overall cost – is a function of the balance of power between the groups, both in the past and in the present. The configuration also reflects, or contains traces of, the relationships between the groups as they stood several generations earlier, but they may also be modified to reflect more recent changes. The deities and their festivals are thus structuring mediators, giving form to the community's relationships within the sub-groups that compose it, and its outer boundaries and negotiations with other groups and with the demonic world outside. The infinite possible combinations, even within a small geographic area, of ecological niches, historical particularities, and social groups and subgroups can thus give rise to endless permutations, always varying in their "words" and "sentences," as Lagerwey puts it, according to the same basic grammar of Chinese religious cosmology.

13 To conclude, then, *China: A Religious State* is an impassioned argument for putting religion at the centre of our understanding of Chinese culture and society, from the smallest village to the imperial state. But to admit to such a perspective is only the beginning of a new path of inquiry – since "religion," as we find it in China, in its bewildering diversity and complexity, is a far cry from the simplistic notions we have inherited from Western experience and secularist ideology highlight a sociological viewpoint and avoid reflection on the political regime.

AUTHOR

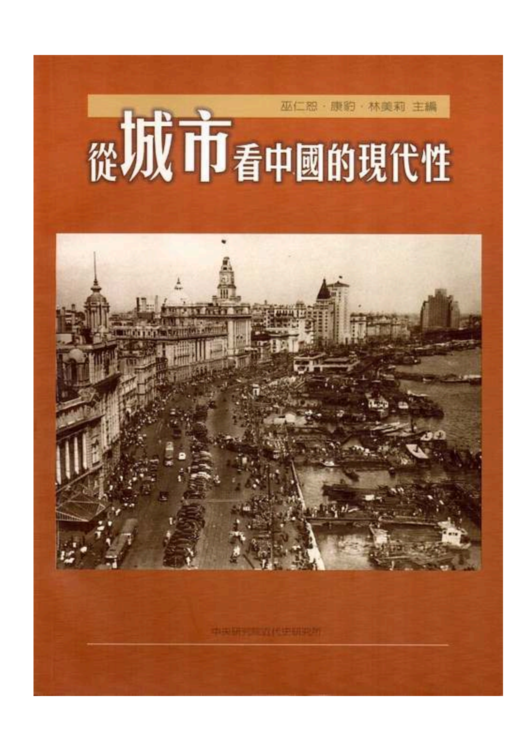
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Wu Renshu, Paul Katz, Lin Meili (eds.), *Cong chengshi kan Zhongguo de xiandaixing* (The city and Chinese modernity)

Taipei, Institute of Modern History, Academia Sinica, 2010, 402 pages including index.

Wen-hsin Yeh



1 This richly empirical volume, which grew out of a conference held at the Institute of Modern History of the Academia Sinica, sheds new light on Chinese cities (Beijing, Suzhou, Shanghai, and Chengdu) from the seventeenth to the twentieth centuries. The essays are organised under two headings: "urban life and culture" and "social groupings and urban dynamics." The volume cuts across the 1839 divide to examine the evolution of consumer culture in pre-modern and modern Chinese cities. It also cuts across the 1949 divide to examine the formation of urban entities (i.e. associations, religious groups, professions, and class) and their organised capacities for social action. The chapters speak to each other with considerable engagement. The editors, active researchers at the academy, deserve much credit for their thoughtful organisation of a rich and rewarding volume.

2 Lai and Cheng open the volume with attention to the seventeenth century. Drawing on court archives, literati commentaries, and trade numbers, Lai shows that Manchu nobles in Beijing were avid consumers of imported Western goods such as woollen fabrics and glass products. The goods first earned favour in the imperial court, then readily inspired emulation throughout the banner community. The fashion took hold precisely because such consumption was exclusive and expensive. Cheng continues with this line of inquiry. He shows that beyond the court and the banner community, others in Chinese society also readily took up a full range of imported products – beer, cloth, clocks, and bicycles. Cheng credits general Chinese habits of consumption, rather than Manchu interest in conspicuous consumption, as a prime mover behind such adoption. Both essays muster quantitative sources to give context to the textual materials that speak to the phenomenon of robust Chinese receptiveness to new products of non-Chinese origin. The two essays combined to challenge the thesis that Qing China was ever a closed-minded empire insular in its consumer orientation. They also draw attention to the critical role of Chinese consumer culture as it functioned to selectively accept or reject new goods.

3 Lien and Chang then direct attention to Shanghai in the first quarter of the twentieth century. The authors consult not only the city's ephemeral tabloids and commercial periodicals, the bulk of which have to be rediscovered; they also delve into Shanghai's vast archives. Both authors take into account non-Chinese sources as well as non-Chinese scholarship to offer comparative perspectives on the practices of shopping and gambling in industrialising cities. Lien offers close-up examinations of urban men and women seeking pleasure and diversion in Shanghai's department stores. Chang explains the ins and outs of Hai Alai matches in Shanghai and throws light on the game's East Asian debut. Department store shopping in Shanghai (much as in Chicago and Paris) offered Chinese women a space to be *safely* feminine and *in* public for the first time. This does not, of course, prevent male shoppers from sexualising the stores' female employees in conventional terms. Hai Alai matches, Chang shows, offered their spectators the excitement of speed, heat, and power embodied in Mediterranean male bodies of youth. Shanghai spectators, thanks to age-old gambling practices, transformed the matches into betting games of calculation. Female spectators meanwhile turned the games into visual consumption of exotic masculinity. Both essays succeed in "de-particularising" the Chinese consumers of the early twentieth century: i.e., they prove to be no different from consumers elsewhere in the world, nor were they different from others in having a cultural code of consumption of their own.

4 China in the twentieth century was of course not quite the same place China was in earlier times. Wu and Carroll place Suzhou at the centre of their essays. In the making of twentieth-century Suzhou, Wu shows, urban memories of past practices mattered as much as the new mode of transportation and the industrialisation of sightseeing. With trains and tour companies, time, remembered as well as experienced, became commodified in the commercialised representation of historical Suzhou. Modern tourists were thus able to access en masse scenic sites that were once exclusive during the Ming and the Qing. Carroll argues, meanwhile, that the rise of the sex industry was an even more powerful force in the spatial transformation of Republican Suzhou. Carroll's chapter offers an in-depth examination of the rise of a spatial regime centred upon the sex industry. Modernity in Suzhou, as in Shanghai, entailed the commodification of culture and sex in a new way.

5 Sun and Wang offer, in their chapters, rich descriptions of popular mobilisations and collective actions concerning Shanghai household renters and Chengdu teahouse owners. In Sun we learn that Shanghai tenants in residential neighbourhoods got together to protest rent increases and the eviction of tenants. In Wang we learn that Chengdu teashop owners formed associations to contest state attempts to control their business practices. Both essays place emphasis on the self-directed capacities of these organisations and their eventual accommodation to the power of the state. "Modern" as the Chinese proprietors appeared to be on matters of economic interest, Liu, Fan, and Katz show that the city hosted a spiritual universe of Daoist and Buddhist beliefs, and communities of faith serving the public good were just as capable of self-organisation as their secular compatriots. Xu and Lin meanwhile probe the secular basis of the professionalisation and organisation of stage performers and accountants at Shanghai workplaces. Taken together, these chapters draw on a full range of urban associations formed on the basis of common interest, beliefs, and knowledge to offer a compelling portrait of Chinese cities in the first half of the twentieth century as places of vibrancy, diversity, and self-directed organised action. Iwama's final essay offers yet another informative presentation about an urban profession and its organisation. All the promises of modernity then came to an end, as Iwama shows, upon the arrival of a new political order in the 1950s. The volume, in short, makes a strong case with regard to the openness and autonomy of Chinese urban society in the decades and centuries prior to 1949.

AUTHOR

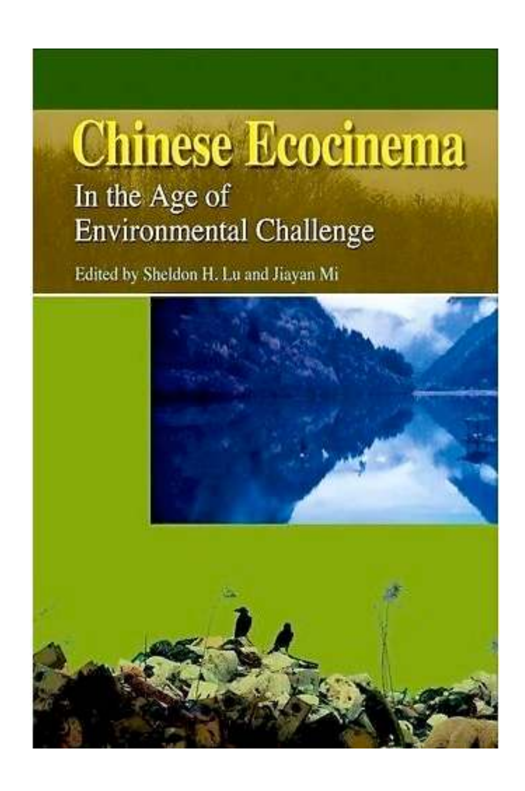
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Sheldon H. Lu and Jiayan Mi (eds.), *Chinese Ecocinema in the Age of Environmental Challenge*

Hong Kong, Hong Kong University Press, 2009, 370 pp.

Jie Li



1 This book proposes the catchy phrase of "Chinese ecocinema" as a new critical paradigm to investigate how Chinese films have engaged environmental and ecological issues in the active re-imagination of locale, place, and space. Whereas Socialist China began breaking with traditional Chinese beliefs in a harmonious social and natural order, it was the state-sponsored developmentalism of the post-Mao era that brought about an unprecedented scale of modernisation-cum-destruction. Hence the volume focuses on Chinese-language feature films and documentaries from the 1980s to the present, which its contributors argue have manifested a new ecological consciousness by featuring biocentric approaches to nature, humanity, and modernity. The individual essays provide interesting and innovative readings of both canonical and little studied contemporary films, with attention to both cinematic form and the "real world" to which the texts refer.

2 The 14 chapters are organised into four parts on water, manufactured landscapes, urban spaces, and bioethics. Part I probes the pathology of Chinese rivers in

contemporary film, with the first three essays by Jiayan Mi, Sheldon Lu, and Nick Kaldis focusing on a cluster of films that depict the environmental and psychic impact of inundation, demolition, and dislocation resulting from the Three Gorges Dam Project. They all read films such as Jia Zhangke's *Still Life*, Zhang Ming's *Wushan Yunyu*, and Dai Sijie's *Balzac and the Little Chinese Seamstress* as testimonies to the disorientating, traumatic experience of massive, irreversible obliteration of historically rich local communities. Also discussing films on water scarcity or pollution such as Chen Kaige's *Yellow Earth*, Wu Tianming's *Old Well*, and Tsai Mingliang's waterlogged works, Mi's essay compellingly argues that water-themed films are not so much "ethnographical" as they are "topological," mapping out the affective bond between people and their localities as well as connecting death by drowning with ecological breakdown. Andrew Hageman's chapter considers the gritty cinematic aesthetic of Lou Ye's *Suzhou River* as a representation of Shanghai's contemporary ecology, with the camera aligned with the point of view of debris floating down the river, hence making us "tarry in the murky world of our own late capitalist creation."

3 Part II, "Eco-Aesthetics, Nature, and Manufactured Landscape," contains three of the most fascinating essays in this book. With Zhang Yimou's *Hero* as a case study, Mary Farquhar uses the traditional concept of the "idea-image" (*yijing*) to highlight the art and artifice of landscapes in "martial arts films in the age of digital reproduction." Besides an innovative analysis of *Hero*'s theme "all land under heaven" (*tianxia*) as well as its colours and digital transformations, which can "expunge real pollution with a flick of the finger," the postscript also turns to the real places where the film was shot, linking land, landscape, location, and the law through recent environmental debates. Jerome Silbergeld focuses on the question of facades and Beijing's ecology in his analysis of Jia Zhangke's *The World*, about the lives of migrant workers who staff a theme park with scaled-down replicas of landmarks from around the globe. Besides pointing out the film's various linkages with contemporary ecological issues, Silbergeld also notes Chinese imperial precedents for landscape simulations. Likewise discussing Jia Zhangke's films, Hongbing Zhang's chapter explores the spatial relationship between the characters and the mise-en-scene, particularly the complementary figures of "ruins and grassroots." Departing from the heroic portrayal of protagonists in mainstream cinema, Jia kept his grassroots characters away from the foreground through long shots, dwarfing them with the ruins of old socialist factories and demolished neighbourhoods, meanwhile showing their extraordinary resilience and ability to survive against all odds.

4 Highlighting the production and disappearance of urban spaces, Part III takes us to illegal coalmines in Shanxi and the industrial landscape of the Northeast, as well as the contemporary cityscapes of Hong Kong and Beijing. Ban Wang prefaces his essay on Li Yang's murder tale *Blind Shaft* and Wang Bing's documentary *West of the Tracks* by describing the "tug of war" between "development-driven policy orientations" and the more "community-based," "nature-friendly," and "non-exploitative" socialist modernity (at least in theory). This chapter goes on to contrast the "beastly, barbarous existence" of workers – victims of the "unregulated market" – in contemporary neorealist and documentary cinema against the "proud socialist working class" as portrayed in the idealised images of Mao era films. Next, Chris Tong examines three Fruit Chan films as showing the "ecoscape" of the "real Hong Kong" that has so far eluded the (mis)representations of the city, exploring themes such as the degeneration and regeneration of urban space and bodies as well as entrapment and mobility across

borders. Jing Nie's chapter discusses the representations of Beijing's urban space and malaise in Zhang Yang's *Shower*, Wang Xiaoshuai's *Beijing Bicycle*, Feng Xiaogang's *Cell Phone*, and again Jia Zhangke's *The World*. It pays special attention to the disappearing traditional spaces of *hutongs* and bathhouses that facilitated interpersonal relationships and memories, showing how the cosy and familiar sense of community gives way to alienation and displacement within the superficial mirage of a modern metropolis.

5 The remaining four chapters grouped under Part IV, "Bioethics, Non-Anthropocentrism, and Green Sovereignty," shift their attention from urban to rural spaces in mainland China, Taiwan, and Tibet, examining films that search for other forms of spirituality than the commodity fetish. In his chapter on the ethical claims of place attachment, Xinmin Liu observes in Wu Tianming's *Old Well* the emotive bonds local peasants forge with their ancestral habitat through manual labour, and the critique of urban betrayal and desertion of the rural in Hou Jianqi's *Nuan*. Xiaoping Lin gives a descriptive analysis of Ning Hao's *Incense*, which follows the tribulations of an impoverished Buddhist monk who tries to rescue his "hundred-year-old temple" by appealing to the government, begging for alms, and turning into a "venture capitalist," only to be notified of the temple's imminent demolition to make way for a new "road to riches." Investigating the "woman-animal meme" in contemporary Taiwanese cinema, Chia-ju Chang analyses both Li Ang's novella *The Butcher's Wife* and its film adaptation by Zeng Zhuangxiang, *Woman of Wrath*, as vegetarian ecofeminist texts. Chang goes on to discuss the symbiotic relationship between humans and animals in Wang Shaodi's animation *Grandma and Her Ghosts*, which challenges an anthropocentric vision of community by highlighting animal subjectivity. Finally, Donghui He examines recent film representations of Tibet, contrasting Tian Zhuangzhuang's ethnographic documentary *Delamu* with Tibetan director Pema Tsedan (Wanma Caidan)'s debut feature *The Silent Holy Stones*. Whereas Tian portrays the ancient trade route between Yunnan and Tibet as a soon-to-be-wiped-out harmonious paradise, Pema shows us a "lived-in environment firmly grounded in everyday specifics," where Tibetans fit a modern Chinese television drama version of *Journey to the West* into their own beliefs in pilgrimage.

6 As a whole, this collection of essays effectively connects aesthetic critiques of contemporary Chinese cinema to environmental, ecological, and bioethical issues, employing close readings of film texts as the dominant approach. With the exception of Farquhar's chapter, however, little attention is given to the production and reception of these films, or to the economy and ecology of cinematic circulation. Apart from a general condemnation of global capital and market reforms, what remains elusive is how these films might changethe environment or compel their audiences to act differently. Yet in teasing out the dialectic of utopia and dystopia in these cinematic portrayals of Chinese locales, this volume may help cultivate among its readers more discerning views of today's environmental crises as mediated through contemporary cinema.

AUTHOR

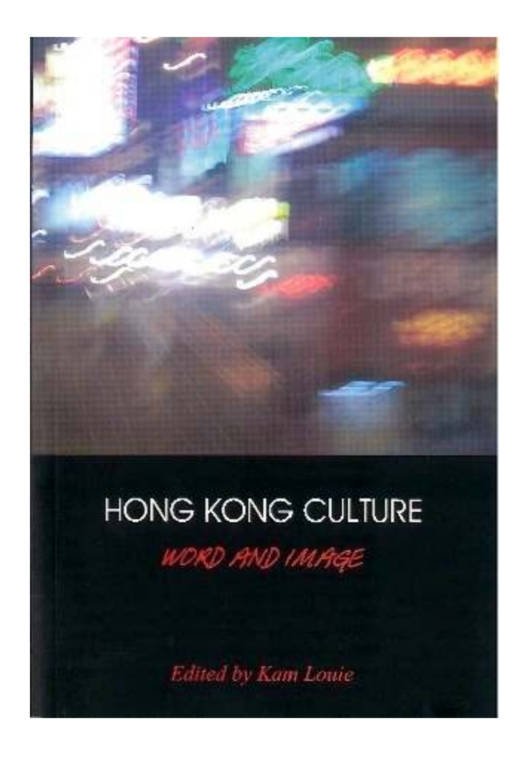
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Kam Louie (ed.), *Hong Kong Culture: Word and Image*

Hong Kong, Hong Kong University Press, 2010, 312 pp.

Fiona Yuk-wa Law



1 It is always an inexhaustible task to define and explain what Hong Kong culture is, and the result would usually be a staggering one. This timely anthology sheds light on grounding the uniqueness of Hong Kong's cultural scene in a specific context of the post-1997 era via an intellectual trajectory of word and image. Edited by Kam Louie, Dean of the Faculty of Arts at the University of Hong Kong and a prolific scholar in Chinese literature, the 13 essays in this book come from a conference convened by the Faculty of Arts on the topic of "Post-1997 Hong Kong culture: Word and image" in 2007. Hong Kong-based and overseas scholars from diverse disciplinary backgrounds contribute their readings of Hong Kong culture from a wide range of academic interests. Having 1997 as a point of departure and contact, these essays review the long-ranged Chinese roots and global influences that are intricately related to the territory's recent transmutations through attending to its sociopolitical background in the analyses of film, literature, performance art, and the cityscape, etc.

2 In light of the attempt to "explore the development of Hong Kong's cultural scene under the 'one country, two systems' framework" and "to critically explore Hong Kong as a polyphonic, diverse source of cultural 'texts'" (p. 1) under the given topic, Louie in

his introduction suggests several phrases to inspire readers' understanding of Hong Kong in uncompromising terms, such as Hong Kong being a "cultural fault-line" in a shaky geographical terrain, a "translation space" between Chinese-ness and Western-ness, a "cultural hub" that joins vernacular culture with cosmopolitanism, a "multifaceted, polyphonic culture that resists easy homogenization" (p. 2), a "transmission zone" where artists and audiences are energised (p. 5), and so on. These phrases and descriptions are indicative in rendering and reinforcing Hong Kong as a site of dynamic cultural studies on an unstable borderline of ruptures and connection. The editor and the authors refuse to rest on an easy, generalised discussion by simply defining Hong Kong culture within the nexus of East-West hybridity; rather, they marble their discussions on various views of Hong Kong's cultural scene with a solid contextual knowledge of the city without manipulating excessive theoretical terminologies.

3 Unlike many anthologies, this book is not divided into sections to make a clear-cut division between discussions on word and image, so that the 13 essays are not rigidly defined by their scopes of interest. However, a subtle route from word to image is found in the order of chapters, which may suggest an understandable path from the local (vernacular Cantonese culture and its related language issues that involve the Chinese and English language) to the global (circulation of images in the context of globalisation). This book review does not strictly follow this implied local-global nexus, while readers may note that my order of writing about these chapters in fact suggests an underlying cobweb of cultural influence between Hong Kong, China, Asia, and the West, and that such a sphere of influence is what Louie and the authors would like to emphasise in their discussions of Hong Kong's unique cultural nourishment under the diverse but somehow crisscrossing influence of postcolonialism, orientalism, postsocialism, postmodernism, and the emergence of localism and cultural preservation.

4 This delightful journey of word and image starts with John M. Carroll's chapter, which provides a comprehensive overview of Hong Kong's unique decolonisation process by outlining crucial changes and continuities in the city's political realities between 1997 and 2007. Carroll's historical framework succinctly points out the difficulties and complexities involved in defining Hong Kong's postcolonial history, especially when the SAR's first decade was rocked by global calamities such as SARS and the Asian Financial Crisis. The aftermaths of the local and global crises, namely the city's political disappointment and the emergence of political commemoration-type demonstrations and marches by Hong Kong residents, are then further explained in Carolyn Cartier's following chapter, which investigates the realm of the performative in Hong Kong's political life through protest art. Another macroscopic account of Hong Kong's post-1997 anxiety is manifested in David Clarke's engaging essay on the "haunted city." Instead of explaining the psychic persistence of a haunting experience via a supernatural, poignant discourse of fear, the author provides a number of local examples in architecture, filmic texts, urban planning, and artworks in order to unfold the way Hong Kong's self-perceived urban landscape is narcissistically articulated in spatial terms with the existence of an implied other. While Clarke's chapter on Hong Kong's urban other focuses on the traces that can be found in the city's visual cultures, Esther M. K. Cheung's later chapter takes a close look at Hong Kong films with a different notion of the "ghostly city." Through a microscopic "spectral analysis," or "hermeneutic reading of the cinematic depiction of space" in three Hong Kong films

made at "various moments of disjointed time in Hong Kong history," Cheung's essay "explore(s) the possibility of writing a meta-history of Hong Kong over the past thirty years" so as to see "how an allegorical reading of the ordinary, quotidian aspects of urban life offers us chances to understand the effects of eventful changes" (p. 170), namely the kairotic moment of the 1997 handover. In addition to Clarke and Cheung's chapters, Pheng Cheah also shows a special interest in Fruit Chan's films in his discussion. By critically examining Hong Kong's post-1997 situation with the city's self-celebration of "being" a global city, Cheah situates his textual analysis of Chan's *Hollywood, Hong Kong* in his acute exploration of what it means to be a global city under the official imperatives of consolatory discourse and image production. In addition to analysing the "plasticity" of the global city's cultural form beneath the "hegemonic imaginary" of global dreams and the "power of the virtual image" (p. 197), this chapter, echoing Clarke and Cheung's, introduces the idea that dreams of global capitalism would be lived as nightmares by the marginalised through the lens of self-referentiality.

5 Gina Marchetti's chapter focuses on another cultural fault line, or "cinematic earthquake"(p. 167) resulting from globalisation. In her study of the phenomena of cinematic remake, adaptation, and global filmic traffic in the case of *Infernal Affairs* and *The Departed*, Marchetti conducts an interesting analysis of this oft-studied aspect in film studies by considering the participatory culture expressed by fan communities in blogs and online discussion groups. This combination of textual analysis and reading of diverse comments by global and local fans of the two films provides important material for expanding academic interest in the study of Hong Kong cinema in the context of global circulation of ideas and images by drawing attention to the power of public opinion. Giorgio Biancorosso's chapter, on the other hand, provides a musical scenario (which is least discussed in the study of Hong Kong cinema) about the East-West, local-global intertextual influences via Wong Kar-wai's films and their soundtracks. Since Wong's films do not easily express attributions from other cultural texts such as literature and film, Biancorosso outlines Wong's sonic space and personal musical taste by combining an analysis of the visual elements with a detailed discussion of the use of pop compilations. The chapter focuses on the way new meanings are generated for the pre-existing music rearranged in Wong's films, so as to suggest an orbit that joins the local with the global, as well as the personal with the collective.

6 The mutual influence between Hong Kong and Hollywood or the West is like the paradox of egg or chicken, while in C. J. W.-L. Wee's chapter, the sphere of cultural influence spreads among the East Asian regions. By focusing on the intra-Asian connection and competition that lie behind post-1990s Hong Kong cinema with a discussion on the emergence of the "New" East Asia through a historical lens, Wee suggests that the shared understanding of capitalist modernisation and rapid urbanisation among these Asian regions is the mechanism that produces the "shared vision of everyday urban life" (p. 114) or "the ongoing development of urban-modern lifestyles" (p. 115) in the "fractured New Asia." Such notions of the modern and the urban provide useful insights into the shaping of cosmopolitan images on Asian screens and therefore explain Hong Kong's significant position in this dynamic cultural productivity within the elusive concept of Asia.

7 Considering the increasing number of Hong Kong-China co-productions as an example of the implementation of "one country, two systems" after the signing of CEPA

(Mainland-Hong Kong Closer Economic Partnership Arrangement) in 2003, Chu Yiu-wai's chapter addresses the important question of whether Deng Xiaoping's idea would necessarily guarantee "one country, two cultures" by tracing a brief history of mainland influence on Hong Kong cinema. The oft-proclaimed decline of post-1997 Hong Kong cinema and the rise of co-production in recent years are both studied in this chapter as indicative of the emerging umbrella concept of "Chinese cinema" under which, according to Chu, Hong Kong cinema's multiplicity can hardly survive (p. 144). Such a sense of crisis not only echoes earlier chapters sounding the alert over cultural mutation after 1997 but also brings to light a changing understanding of Chineseness and Hong Kong's cultural identity, which is further explored in the arena of word. Elaine Ho's chapter on biliteracy and translation reads "Hong Kong's complex linguistic geography" (p. 56) through close-reading three Hong Kong poems and their English translations. By reflecting on the post-1997 official policy of biliteracy and trilingualism, and acknowledging the "dynamic interflows" between translation and postcolonial studies, Ho's analysis of the three poems suggests that the "worlding" of Hong Kong through English could point to the city's "original Chineseness" as well as its hybridity (p. 65). Douglas Kerr's chapter focuses on the place of English poetry in Hong Kong by reading Louise Ho's poems. Also attending to the poetic form, this chapter examines the way English as a "world" or "a-local" language articulates locality, migratory experiences, and cultural memory in Ho's works. Kerr's highlight of the strategic use of English in Hong Kong poetry echoes Michael Ingham's essay on Xu Xi's literary works. However, instead of a close study of the literary genre alone, Ingham makes an interesting connection between the literary and film forms by addressing to the notion of "essay" in order to unfold the critical discourse in Hong Kong's cultural production and concern for controversial issues with a critical distance. His comparative analysis of Xu Xi's essay writings and Herman Yau's "film essay" provides a profoundly notable approach in comparative study across word and image. No doubt, a "film essay" is similar to the documentary genre, and Chris Berry has extended the discussion of this non-fictional genre in his chapter on Tammy Cheung's films. Berry's detailed study of Cheung's career as an independent documentary filmmaker is instructive in mapping the alternative film scene in Hong Kong, Beijing, and Taiwan. According to Berry, this independent mode of cultural production, or "independent culture" that generates public debates through aesthetic practices, is an important part of Hong Kong's modern culture. As other authors in this volume have hinted, it is clear that freedom of speech and autonomous thought are what make Hong Kong an important cultural hub despite its potentially cracking edges.

8 It is easy to understand why the majority of texts analysed are films and literary works, taking into account that they are indeed representative genres of "word and image," but it may enrich the scope of scholarship if a more extensive range of cultural texts could be included. The chapters on music, other forms of visual arts, and a mixed study across cultural forms are therefore major leaps from existing scholarships. In general, although the book may not break radically new ground in building a conceptual or theoretical framework to understand Hong Kong culture, and some chapters share similar viewpoints about Hong Kong's current problems and opportunities in different dictions, the essays are all highly readable and they are all fundamental readings for courses about Hong Kong (or even postsocialist China) cultural studies with an emphasis on textual analysis. The book will definitely invite further scholarship in Hong Kong's literary, cinematic, and cultural studies under an ever-renewing context.

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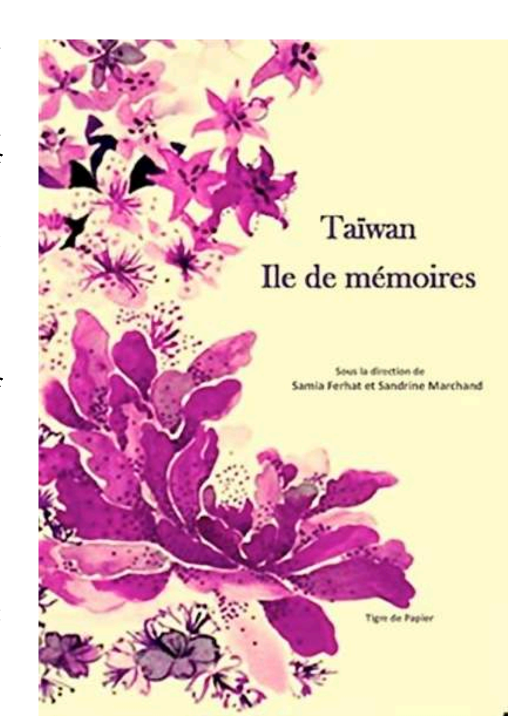
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Samia Ferhat, Sandrine Marchand (ed.), *Taïwan - Ile de memoires* (Taiwan: Island of memories)

Lyon, Éditions Tigre de papier, 2011, 284 pp.

Vladimir Stolojan

Translation : N. Jayaram



1 At a time when Taiwan is habitually thought of as an "identity laboratory," Samia Ferhat and Sandrine Marchand seek to present it as an "island of memories." As memory plays a major role in the construction of identity, this shift in emphasis is quite logical. While collective memory ought to be singular, the diversity of the island's affective communities, and therefore of experiences and memories, fully justifies the plural in the title. Plurality is also reflected among the authors: the book is the fruit of collaboration among scholars from three countries – Britain, Taiwan, and France – drawn from different disciplines (history, sociology, anthropology, and literature).

2 The book opens with a reflection on Taiwan being an island and its ambiguous relation with the mainland. It comes across as a place of churning, its diversity offered as a counter model to a mainland steeped in homogeneity and stability (p. 10). With its diversity and its dynamism born of inter-mingling, Taiwan is a creation that is creating itself (p. 11). The introduction goes over the major episodes in Taiwan's history

through the prism of what is at stake in current memory, such as the Japanese colonisers' cultural assimilation policy, the re-Sinification to the detriment of Taiwanese heritage during the Nationalist dictatorship, and finally the democratisation supposedly tending towards a multicultural national identity, although, of course, it was mostly the formerly subjugated groups that expressed the greatest desire for memorial recognition (pp. 24-25). This reflection concludes by noting that Taiwanese youth hardly pay heed to the quarrels of previous generations. They even seem to have overcome such quarrels, given their relaxed memory of reconciliation.

3 Apart from this rapid overview of Taiwanese history, essential in order for the work to be accessible to non-specialists, the introduction posits some theoretical bases to dispel any misunderstanding over the notion of memory. While individual memory is evoked and would be mobilised through the figure of the exile, the accent is on the collective and identity dimension. Collective memory must not be confused with official ideology. On the contrary, it has helped preserve memories of often sorrowful experiences that did not adhere to what was authorised but which found expression with democratisation, heralding renegotiations over interpreting the past. The normative function of collective memory for strengthening group cohesion is also dealt with, notably by Gilles Deleuze, Maurice Halbwachs, Pierre Nora, and Marie-Claire Lavabre. Despite the clarity of the explanatory work, the book might have been sharper had it included a more explicit framework around two or three main thematic issues. This has not been the case, as various researches are presented in a detailed manner but the authors have not explicitly set out the inter-relationships among them – all the more regrettable because the book contains transverse axes amenable to such a treatment. For instance, it might have been presented in chronological order (different temporalities being brought out clearly), thematically (memory of colonial time, memory of war, emergence and then affirmation of a new memory after the regime's liberalisation, indigenous memory), or in terms of the various communities mentioned. As the last of these appears most interesting, this review retains that framework in examining the book.

4 The first chapter stands out from the rest as it is the only one dealing with the Qing domination over Taiwan. Edward Vickers convincingly shows that the island was treated by the Manchus as a colony to be populated, but he does not seek to add another pillar to the edifice of colonial studies, rather rising above the ultranationalist Chinese and Taiwanese discourses, both of which tend to be mired in victimhood with insufficient attention to Taiwanese Hans' role as actors in the colonial mission.

5 Other contributions deal with the dichotomy between *benshengren*本省人 (Taiwanese who had been on the island since before 1945) and *waishengren*外省人 (those who arrived gradually with the Nationalist retreat from the mainland, also referred to as Mainlanders), which structured Taiwan throughout the authoritarian era. It is still perceptible today, but less obtrusively. Wu Nai-de reviews research on the "28 February 1947 incident." This episode, in which Nationalist troops massacred a large part of the local elite and many thousands of innocent people, poisoned relations between the two communities for more than half a century. Despite a prohibition on any mention of the tragedy during the dictatorship, memories have remained vibrant, especially among families. Democratisation helped begin memorial work that remains incomplete. Marchand focuses specifically on Mainlanders, not those who joined the Nationalist regime's elite but the uprooted ones, the indigent *waishengren* who were unable to

integrate once exiled in Taiwan. She seeks to explore the feeling of nostalgia expressed in works written by *waishengren*, with special attention to those of the second generation, that is, those born in Taiwan.

6 The 1970s and the emergence, followed by affirmation, of a collective conscience centred on Taiwan form the common theme in the chapters by Hsiau A-chin and Damien Morier-Genoud. Until then, official ideology emphasised Chinese traditional culture as well as a glorious vision of a merely temporary island retreat that would lead to a triumphal return to the mainland. Meanwhile it downplayed heritage specific to Taiwan. The Taiwanese sociologist shows how the maturing of a new generation of Taiwanese intellectuals helped shed more light on the struggle against Japanese occupiers so as to promote a greater participation of local people in the island's governance. This marked the start of the "non-party" (*dangwai*黨外) movement, which played a leading role in the regime's democratisation. Morier-Genoud holds that a key moment in the formation of a "native" historiography, i.e., free of Nationalist ideological shackles, came in the early 1970s. Thus an anthropological study came out in 1972 stressing the "indigenisation" of Han Taiwanese, as opposed to the "integration of the periphery," which was dear to Nationalist historiography (p. 268). Democratisation led to an institutional and academic recognition of such new reading of the island's past, with for instance the setting up in 2004 of the Institute of Taiwan History in the Academia Sinica.

7 The chapters by Samia Ferhat and Peng Hsiao-yen introduce a new memory, that of the second Sino-Japanese war, focusing on different assessments observable on the two sides of the Taiwan Strait. Ferhat captures the changes in perceiving the past by looking at official commemorations. In China, they closely reflect current political concerns. During the Cold War, these concerns centred on the importance of confronting the United States, but with the rise of nationalism, it is Japanese crimes and the experiences of the population that are in the limelight, swinging between heroism and martyrdom. Feelings are more complex in Taiwan: anti-Japanese resistance is a source of Nationalist pride, but the pro-independence forces are unconcerned with this heritage. Peng chooses to analyse Taiwanese director Ang Lee's 2007 film *Lust/Caution*. Given the theme, which could seem anachronistic considering Taiwanese society at present, and also because of his origins, Ang Lee was quickly seen as representing "the viewpoint of the second generation of Mainlanders" (p. 190). The way in which he invokes the Sino-Japanese war takes after the official historiography of the authoritarian period, characterised by a glorification of the resistance in the face of Japanese invaders and a celebration of Chinese nationalism. However, the director steps back and reverses this viewpoint via the main protagonist, a young Nationalist spy who finally allows the escape of a collaborator she was to kill, thereby condemning herself and her companions to certain death. The character's ambiguity is well brought out and the author goes on to a very detailed reading of the film, but Peng's conclusion is contradictory because she asserts that "Taiwan has not built a collective conscience," while at the same time saying, "The problem of identity is no longer an issue" (p. 219). Further, she interprets Ang Lee's tears following the film's premiere as a sign of "relief at seeing his country recognising his emotion" (p. 222): would the recognition then not signal that despite the disparities in family trajectories among Taiwan's population, there still exists a commonality of feeling?

8 The last memory the book deals with is that of the aborigines. Using Sandimen village as an example, Chantal Zheng shows how the Paiwans' re-appropriation of Christianity helped them revive and reclaim their own traditions, which until then seemed destined to disappear. Thus, the snake painting in the church is part of the Genesis tale but is also, and above all, the totemic animal at the centre of Paiwan cosmology. Other elements from Christianity find an echo in traditional religion, which has been able to persist through them. The church also helps preserve languages, as it has been one of the few places where inhabitants could speak in their own tongues (p. 244). Liu Pi-Chen shows that aboriginal heritage, at first stigmatised, has emerged as an object of reclaiming and a source of new-found pride. Liu describes the discriminatory policies under the Qing, the Japanese, and the Nationalists, and the initial movements for reclaiming identity in the 1980s. One of the results was a jettisoning of old categorisations such as "mountain compatriots" (*shanbao* 山胞) in favor of "aborigines" (*yuanzhumin* 原住民). Finally, there is a study of the Kavalan ethnic group, which had to wait until 2002 for recognition as a separate entity. In order to ensure its cohesion, the group has focused its memory on a short account presenting them as originating from the Ilan region three generations ago, although the Kavalan today mostly live in the island's south and centre. It does amount to a recreation of collective memory.

9 Most of the accounts in this collection are concentrated around studied populations. A chronological approach could also have been attempted, if the idea was to study the constitution of the island's own collective memory. While a few minor oversights have been touched on in this review, they do not diminish the high quality of the book as a whole. This rich and diverse work can be recommended especially to those interested in the issue of memory in the Chinese world.

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